

U.S. GOVERNMENT
LEASE FOR REAL PROPERTY

DATE OF LEASE

March 2, 2001

LEASE NO.

GS-09B-01022

THIS LEASE, made and entered into this date by and between

WESTERN DEVCON, INC.

whose address is 10525 Vista Sorrento Parkway, #110
San Diego, CA 92121

and whose interest in the property hereinafter described is that of owner

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned, covenant and agree as follows:

1. The Lessor hereby leases to the Government the following described premises:

54,119 rentable square feet (rsf) of laboratory, office and related space to be constructed at the lot known as the Vista Oaks Business Center as further depicted in Exhibit "A" Site Plan and Exhibit B, Government Project Program Documents "CD Rom", attached hereto and made a part hereof, together with 70 secured reserved parking spaces for exclusive use of the Government.

to be used for such purposes as determined by the General Services Administration.

- ~~2. TO HAVE AND TO HOLD the said premises with their appurtenances for the term beginning on DATE through DATE, subject to termination and renewal rights as may be hereinafter set forth. Commencement of lease will coincide with termination of current lease.~~

PARAGRAPH 2 IS HEREBY DELETED IN IT'S ENTIRETY. REFER TO PARAGRAPH 9.

3. The Government shall pay the Lessor annual rent as follows:

For months 1 through 2 - \$0.00 per month in arrears;

For months 3 through 216 - the annual rent of \$2,532,769.00 at the rate of \$211,064.08 (\$46.80 PRSF) per month in arrears.

Rent for the lesser period shall be prorated. Rent check shall be made payable to:

Western Devcon, Inc.
10525 Vista Sorrento Parkway, #110
San Diego, CA 92121

Prior to final occupancy and commencement of rent, Lessor will sign up for Electronic Funds Deposit."

- ~~4. The Government may terminate this lease at any time after _____ by giving at least _____ days notice in writing to the Lessor and no rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.~~

PARAGRAPH 4 IS HEREBY DELETED IN IT'S ENTIRETY.

5. This lease may be renewed at the option of the Government, for the following terms and at the following rentals: provided notice be given in writing to the Lessor at least _____ days before the end of the original lease term or any renewal term; all other terms and conditions of this lease shall remain the same during any renewal term. Said notice shall be computed commencing with the day after the date of mailing

PARAGRAPH 5 IS HEREBY DELETED IN IT'S ENTIRETY.

(G2)nd

6. The Lessor shall furnish to the Government, as part of the rental consideration, the following:

- A. All labor, materials, equipment, design, professional fees, inspection fees, utilities, construction drawings (including, without limitation, plans and specifications), construction costs and services and all other similar costs and expenses associated with making the space, common areas and related facilities ready for occupancy in accordance with the requirements of the Lease, Amendments No. 1 and 2, and the Government's Project Program Documents(PPD).
- B. All costs associated with services, utilities, maintenance, repair, replacement, inspections, improvements and other reasonably related requirements as specified in the Lease and PPD.
- C. All parking spaces described in paragraph 1 and required by local code together with all appurtenant improvements and facilities.

7. The following are attached and made a part hereof:

- 1. Solicitation for Offers (SFO) No. 9CA01019
- 2. Amendment No. 1 containing revised CD Rom and Project Program Documents
- 3. Amendment No. 2
- 4. Sheets No. 1, 2, and 3 containing Paragraphs 9 through 25
- 5. Exhibit "A" Site Plan
- 6. GSA Form 3517B, General Clauses (Rev 12/99) - 26 pages
- 7. GSA Form 3518, Representations and Certifications (Rev 12/99) - 4 pages

8. The following changes were made in this lease prior to its execution:

PARAGRAPHS 2, 4, AND 5 OF THIS STANDARD FORM 2 HAVE BEEN DELETED IN THEIR ENTIRETY. PARAGRAPHS 9 THROUGH 25 HAVE BEEN ADDED.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR

(b) (6)

BY

(Signature)

Mike Ibe, President

(Signature)

IN PRESENCE OF

(b) (6)

(Signature) Joe Beauchamp, VP

10525 Vista Sorrento Parkway, #110
San Diego, CA 92121

(Address)

UNITED STATES OF AMERICA GENERAL SERVICES ADMINISTRATION

BY Maria Dent

(b) (6)

(Signature)

Contracting Officer

(Official title)

- "9. TO HAVE AND TO HOLD the said premises with their appurtenances for the term beginning on the date the space is accepted for occupancy by the Government through the following 18 year period. The acceptance inspection will be conducted within five (5) business days of notification by the Lessor that the space is ready for occupancy."
- "10. The Lessor shall deliver the space within 22 months from lease award and shall build out the space in accordance with the requirements of the Lease, Amendments 1 and 2, and the Government's Project Program Documents (PPD).
- "11. At no additional cost to the Government, the Lessor shall provide all design and engineering services required to adapt the Government-furnished Project Program Documents to the proposed site, taking responsibility for completing, further developing, expanding upon, supplementing, and correcting the Government's PPD design as necessary to provide a complete and usable facility, consistent with and substantially similar to the facility described by the PPD design.
- "12. The Lessor shall assume ownership of the Government-furnished PPD design at lease award.
- "13. The Lessor shall act as Architect and/or Engineer of Record and shall be solely responsible for the professional quality, technical accuracy, constructibility, code compliance, and coordination of all designs, drawings, and specifications furnished by the Lessor under this contract.
- "14. In further developing, expanding, supplementing, completing, and correcting the project design, the Lessor shall utilize the PPD design as a starting point, advancing the design from the level of detail and completion provided to that necessary to provide a complete and usable facility. The resulting design by the Lessor shall be a direct extension and evolutionary advancement of the PPD, completed and adapted to the specific site where the building will be located, retaining all the functional, physical, quality, and aesthetic characteristics of the PPD. The GSA Contracting Officer shall have the right to reject any aspect of the Lessor's design which varies from the PPD or which would adversely affect the Government's use and occupancy of the space or the Government's other interests in the building, as set forth in by the Lease agreement.
- "15. Discretionary modifications to the PPD design are not encouraged. The Lessor shall make modifications to the PPD design only as necessary to comply with local codes, to adapt to the physical features and conditions found at the site, and to enhance the constructibility of the design. No deviations from these drawings will be allowed except for those changes approved in writing by the GSA Contracting Officer."
- "16. Pursuant to Paragraph 1.8 of Solicitation For Offers No. 9CA01019 entitled "Occupancy Date" occupancy is required no later than twenty two (22) months after lease award."
- "17. Pursuant to Paragraph 6(d) of Solicitation For Offers, Pro Forma Lease No. 9CA01019, the Government's percentage of occupancy is 100 percent."
- "18. Pursuant to Paragraph 5 of Solicitation For Offers, Pro Forma Lease No. 9CA01019 entitled "Operating Costs, (JUN 1985)", the base for the operating costs adjustment is established at \$(b) (4) per rentable square foot of office space per annum."
- "19. In the event of partial or total vacancy, the rent will be reduced by \$4.20 per rentable square foot per annum."

INITIALS G2 & MD
Lessor Government

SHEET NO. 2 IS ATTACHED HERETO AND MADE A PART OF LEASE GS-09B-01022

- "20. Pursuant to the Paragraph 11 of Solicitation For Offers, Pro Forma Lease No. 9CA01019 entitled "Liquidated Damages, GSAR 522.270-22 AUG 1992), liquidated damages shall be assessed in the amount of \$1,820.00 for each and every calendar day that the delivery is delayed beyond the date specified for delivery for all the space ready for occupancy by the Government."
- "21. The Lessor shall, in accordance with Paragraph 10, of Solicitation For Offers 9CA01019, Pro Forma Lease Exhibit D, entitled "Radon Measurement and Corrective Action", the lessor shall provide a radon certificate 150 days after space acceptance."
- "22. The Government may accept occupancy prior to completion of items which the contracting officer determines do not affect beneficial occupancy. Any items requiring completion or correction at the time of acceptance of the space shall be completed or corrected within (30 days of acceptance). Such work shall be scheduled and performed so as to avoid interference with the Government's use of the space. In the event Lessor fails to complete the work within the time provided, in addition to any other rights the Government may have, the Government shall have the right to exercise the remedies provided in *Paragraph 15 of GSA Form 3517.*"
- "23. The Lessor's Taxpayer Identification Number (TIN) is (b) (4)
- "24. As used throughout the contract documents, "Government" shall mean the United States General Services Administration (GSA) acting in a contractual capacity and represented by the GSA Contracting Officer. "Government" does not refer to any other branches, departments, or units of the United States Federal Government; the various States, territories, and possessions; or local political subdivisions of the States, territories, and possessions acting in their sovereign capacity."

INITIALS
Lessor

GS

&

MD

Government

SHEET NO. 3 IS ATTACHED HERETO AND MADE A PART OF LEASE GS-09B-01022

"25. At the request of the Government, the Lessor shall provide all labor, materials and equipment to install the above standard items in accordance with the Special Space Requirements attached to Solicitation For Offers No. 9CA01019. The Lump Sum costs as negotiated are listed below:

Interior Construction

(b) (4), (b) (7)(F)

(b) (4)

Mechanical

(b) (4)

Electrical

(b) (4)

Equipment

(b) (4)

Site Work

(b) (4)

The Government make elect to make partial lump sum payments after completion of the work and acceptance by the Government. Payment will be due only for items which are both: (a) listed in this paragraph, and (b) shown on the Government's Project Program Documents or requested in writing by the GSA Contracting Officer. Title to items for which the Government makes a lump sum payment shall vest in the Government. These items can be removed by the Government at any time. Lessor waives any restoration in connection with these items. Unless the Government has removed the item from the premises, Lessor shall remain responsible for maintenance, repair and replacement of all items provided by the Lessor under this lease. If, after the lease term and any extended, renewal or succeeding lease term, the Government elects to abandon any items in place, title shall pass to the Lessor."

INITIALS Gr & MD
Lessor Government

SOLICITATION FOR OFFERS

(b) (7)(F)

54,119 Rentable Square Feet of Laboratory and Related Space
San Diego, California



U.S. General Services Administration
Public Buildings Service

Maria Dent
Contracting Officer

(b) (6)

The information collection requirements contained in this Solicitation/Contract, that are not required by the regulation, have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0163.

SFO NO. 9CA01019 (b) (7)(F)

September 2000

JB & md

LESSOR

GOV'T

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1. GENERAL

The United States General Services Administration is seeking a lessor to provide a fully serviced lease for a eighteen (18) year term for laboratory and related facilities for (b) (7)(F). The requirement is for a single story facility consisting of 54,119 rentable square feet. The laboratory space will consist of three large analytical chemistry laboratories and small individual laboratories designed for special function instrumentation and sensitive laboratory procedures.

(b) (7)(F) has prepared detailed Project Program Documents (PPD) for the laboratory facility which illustrates the Government's design requirements. As part of the rental consideration, the Lessor shall provide all design and engineering services required to adapt (b) (7)(F) furnished design to the offered site and all construction services required to construct the laboratory facility. The Lessor shall assume ownership of and responsibility for (b) (7)(F) furnished design at lease award.

The procurement will be conducted in two phases. Phase I will consist of evaluation of the technical qualifications of Offeror and their Key Personnel. No more than five offerors will be invited to submit offers for Phase II, which will consist of an evaluation of technical proposal and price. PPD will be furnished via CD Rom in Phase II.

1.1 AMOUNT AND TYPE OF SPACE (JAN 1997)

- (a) The General Services Administration (GSA) is interested in leasing approximately 54,119 square feet of rentable space. The rentable space must yield a minimum of 41,823 occupiable square feet to a maximum of 43,914 occupiable square feet, available for use by Tenant for personnel, furnishings, and equipment.
- (b) Offers must be for space located in a quality building of sound and substantial construction as described in this solicitation for offers. For purposes of this solicitation, the definition of occupiable square feet is the definition of "Occupiable Space" in the Definitions paragraph of the Lease Form (as defined below in "Other Requirements").
- (c) Unless otherwise noted, all references in this solicitation to square feet shall mean occupiable square feet.

1.2 AREA OF CONSIDERATION

The site must be located within the following boundaries of San Diego, CA.

SOUTH: Balboa Avenue;
EAST: Highway 15 to Pomerado Road to Rancho Bernardo Road to Highway 15;
NORTH: Highway 78 ;
WEST: Interstate 5

1.3 LOCATION: OUTSIDE CITY CENTER (JUN 1994)

(a) PARKING:

Parking shall meet current local code or if a waiver is obtained to deviate from local code, parking must accommodate a minimum of 70 employees.

(b) ADDITIONAL REQUIREMENTS:


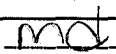
- (1) The Government will not consider adjacent land uses that in the discretion of the Government impact the mission of (b) (7)(F). Locations within 1 mile of correctional facilities, drug rehabilitation clinics, half-way houses or other similar uses will not be accepted.
- (2) Sites located within 1,000 linear feet of an existing residential uses or school will not be accepted.

1.4 UNIQUE REQUIREMENTS

- (a) The Government will furnish as an integral part of this Solicitation For Offers, Project Program Documents for the laboratory facility. As a part of the rental consideration, the lessor shall provide all design and engineering services required to adapt the Government-furnished Project Program Documents to the proposed site. The Lessor shall assume ownership of the Government furnished PPD at lease award. The lessor shall be fully responsible for the constructability of the design. The Government Project Documents consist of Drawing (two volumes) and Specifications (Division 0-16).

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- (b) This is a modified Design Build type project that involves the site adaptation of the Government's PPD. The lessor shall be responsible for furnishing the Government both the design and the construction in accordance with the requirements of this Solicitation, including entire project financing as well as operating and maintaining the facility for the entire term of the lease.
- (c) This lease must be an Operating Lease as defined by OMB Bulletin 91-02, dated 10-18-90 (enclosed). An Operating Lease is determined by calculating the present value of the net operating income over the life of the lease. The present value can not exceed 90 percent of the fair market value of the asset. Net operating income is derived by subtracting operating expenses, taxes, insurance, lessor's management and building maintenance, and reserves or replacement costs from the gross annual rent.

1.5 OTHER REQUIREMENTS

- (a) The Space must meet the requirements set forth in the pro forma U.S. Government Lease for Real Property in Attachment 8 to this Solicitation for Offers ("Lease Form").
- (b) Hazardous Materials. The Site (defined as the legally defined parcel upon which the proposed building will be located) must be free of "Hazardous Materials" (defined below). Offerors must submit a copy of a current (prepared no earlier than 12 months of the date of submission to the Government) Phase I Environmental Site Assessment (ASTM 1527-94) for the Site. In the event that the remediation of the Site or any portion is necessary, Offerors must demonstrate that the remediation can be completed without impact to the Government's occupancy date.
- (c) Infrastructure. At the time of the Phase I Deadline, all infrastructure (public services, utilities, and roadways to the Site) necessary for the proposed use by the Government must be available. The site must have sewer and water allocation capacity sufficient to serve 55,000 gross square feet of laboratory and office space for 70 Government employees.
- (d) Suitability for construction. The site must be suitable for the construction of a new building. Sites requiring demolition or mitigation of adverse impacts as required by the California Environmental Quality Act, National Environmental Policy Act or other applicable laws in preparation for new construction must demonstrate to the Government that such action will not delay the Government's proposed Occupancy Date.
- (e) Suitability of Site.

(1) Minimum Size of Site. The Government estimates that, exclusive of on-site employee parking, a site of approximately 4.6 acres is necessary to accommodate the PPD design. On-site parking and other conditions unique to the Site and/or application of Site development criteria required by the PPD may result in a requirement for a larger site. Offerors are notified that the Site must be of sufficient size and configuration to accommodate the Government's building design without any modifications. Offerors must demonstrate to the Government the Site can accommodate the building.

(2) Topography of Site. The PPD building design requires a level building pad. The building pad for the Enclosed Garden and Secure Truck Yard must be generally level. The surrounding Landscaped Buffer Zone as illustrated by the PPD (Information Diagram No. 4) must slope away from the level building pad. In the event that the Site will require grading the necessary topography, the grading must be capable of being completed without delaying the Government's proposed Occupancy Date.

(3) Orientation of Building. The PPD building design may be rotated to any orientation. However, the PPD design may not be mirrored. (i.e., the building configuration must remain the same as the Government's PPD).

(4) Street frontage. Street frontages may occur on a maximum of two sides of the Site. Greater preference will be given to Sites with a single street frontage. The length of the boundary adjoining such streets and right-of-way shall not exceed 50 percent of the total length of the entire Site perimeter. Street frontages may not occur to the north side as designated in the PPD. Greater preference will be given to street frontage to the east (with respect to the assumed north on the PPD).

(5) Setback.

- (i) Setback from property lines. All portions of the building footprint must be setback a minimum of 60 feet from the adjacent property lines, assumed property lines and right of way boundaries as illustrated in detail by the PPD (Information Package Diagram No. 2). Greater preference will be given to sites which are setback up to 100 feet from the adjacent property lines, assumed property lines and right of way boundaries as illustrated in detail by the PPD (Information Package Diagram No. 2). Certain site development features outside of the building footprint but integral to the PPD building design must be setback a minimum of 20 feet from the adjacent property lines, assumed property lines and right of way boundaries as illustrated in detail by the PPD (Information Package Diagram No. 2). For purposes of determining setbacks, "assumed property lines" occur along lines place equidistant between buildings (if any) on the Site and the building footprint.

(ii) Minimum Setbacks from Parking and On-Site Access Roadways

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- (1) Unsecured on-site parking for Government employees. All portions of the building footprint must be setback a minimum of 100 feet from unsecured parking (if any) as required by the PPD (Information Package Diagram No. 3).
- (2) Secured on-site parking for Government employees. All portions of the building footprint must be setback a minimum of 20 feet from secured parking (if any). All Official Vehicle Parking - official vehicle parking shall be located within the Secure Truck Yard as required by the PPD (Information Package Diagram No 1).
- (3) Parking Located on Adjacent Properties - all portions of the building footprint must be setback at least 100 feet from parking of any type located on adjoining properties.
- (5) Public Parking - parking (if any) available to the general public shall not be permitted on-site.

(iii) Relationship of Building to On-site Parking:

On-site parking may not be located to the north side of the building as designated by the PPD. Official vehicle parking shall be located within the Secure Truck Yard as required by the PPD.

(iv) Landscaping Buffer Required Around Building: The Government's PPD require a landscaped buffer zone surrounding the building (Information Package Diagram No. 4). The location of access roadways (including fire department access lanes), parking lots, and pedestrian walkways within the buffer zone is limited.

Vehicle Access to Secure Truck Yard. Vehicle access onto the site from the adjoining public street(s), and across the site into the Secure Truck Yard, shall be adequate to accommodate a 55 foot-long semi-truck and trailer. Vehicle access to the Secure Truck Yard shall be provided at the locations shown by the PPD (Information Package Diagram No 1).

1.6 LEASE TERM

The lease term will be for 18 years firm.

1.7 OFFER DUE DATE

Initial offers are due by 12:00 PM, on Tuesday October 10, 2000, and must remain open until accepted/rejected by the Government or withdrawn in writing by the offeror.

1.8 OCCUPANCY DATE

Occupancy is required no later than twenty two months after award of Lease.

1.9 ACCESSIBILITY FOR NEW CONSTRUCTION (JAN 1997)

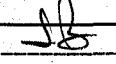
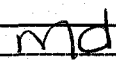
To be considered for award, the entire site to be constructed must fully meet the new construction requirements of the Americans With Disabilities Act Accessibility Guidelines (ADAAG) (36 CFR Part 36, App. A) and the Uniform Federal Accessibility Standards (UFAS) (Federal Register vol. 49, No. 153, August 7, 1984, reissued as FED. STD. 795, dated April 1, 1988, and amended by Federal Property Management Regulations Amendment D-88, 54 FR 12627, March 28, 1989), and the Government's PPD. Where standards conflict, the more stringent shall apply.

1.10 SEISMIC SAFETY FOR NEW CONSTRUCTION (JAN 1997)

- (a) All new building must fully meet seismic safety standards, as described below.
- (b) Offeror shall provide a written certification from a licensed structural engineer that the building conforms to the seismic standards for new construction applicable to the Lessor's specific site set forth by each of the following:
 1. The current (as of the date of this solicitation) edition of the ICBO Uniform Building Code as adopted by the local government authority having jurisdiction over construction on the site.
 2. The current (as of the date of this solicitation) edition of the California Code of Regulations, Part 2, Title 24 as applicable to the type of use and construction shown by the PPD.
 3. The Government's PPD contains structural requirements that may exceed those required by Code or common local practice. Where the requirements of the PPD are more restrictive than those of the applicable Code or practice, the Lessor shall comply with the requirements of the PPD.
- (c) All design and engineering documents, including structural engineering calculations, must be made available for review by the Government during design adapt to ensure compliance with seismic safety standards.

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1.11 HOW TO OFFER

PHASE I Offer Requirements:

- (a) Offers are to be submitted to the Contracting Officer at:
- Maria Dent, GSA Contracting Officer
General Services Administration
880 Front Street, Suite 4236
San Diego, CA 92101
Phone No. (619) 557-6892; FAX (619) 557-5018
- (b) No later than 12:00 PM on June 30, 2000 the Phase I offer due date the following documents, properly completed and/or executed, must be submitted:
- (1) Information Package-
 - i. Part C - Submittal Requirements - Standard Form 254 and 255
 - ii. Authorization and Release Form
 - (2) Site plan showing the adaptation of the Government furnished PPD to the proposed site.
 - (3) A completed Procurement Integrity Certificate (Attachment 4).
 - (4) Documents required for evaluation of Award Factors.
 - (5) **Neighborhood Map** - a scale map showing the area within a two (2) mile radius of the offered site with the location of the site clearly indicated. The map must illustrate the location and clearly identify all amenities and employee services that the Offeror wishes the Government to consider as evidence of compliance with the minimum site criteria. The map must illustrate and identify the location of all schools and residential neighborhoods within a one (1) mile radius of the offered site.
 - (6) **Land Use Map** - a zoning, general plan, master plan or similar map with the offered site clearly indicated which the Prospective Offeror wishes to Government to consider as evidence that:
 - The current zoning and/or master plan will accommodate the proposed laboratory use.
 - The current and proposed surrounding uses are compatible with the proposed laboratory use.
 - (7) **Phase I Environmental Site Assessment** - Assessments must meet American Society for Testing and Materials standard ASTM 1527-94. For all land uses occurring since the completion of the Phase I Assessment, the Prospective Offeror must submit satisfactory documentation reflecting compliance with all Federal, state, and local environmental regulations. In the event that the remediation of the Site or any portion is necessary, Offerors must demonstrate that the remediation can be completed without impact to the Government's occupancy date.
 - (8) **Environmental Impact Assessment Questionnaire** - complete Attachment No 2 of the Information Package - Environmental Impact Assessment Questionnaire.
 - (9) Certification required under Paragraph 5.13, Flood Plains and Wetlands.
 - (10) The Offeror should also include as part of the offer, information which addresses any award factors which are listed in the solicitation paragraph entitled "Other Factors."

Those offerors who are invited to submit offers in Phase II will be given further instruction in Phase II regarding the due date for Phase II offers.

PHASE II Offer Requirements:

- (1) GSA Form 1364, Proposal to Lease Space (Attachment 1) or similar form which clearly structures the rental as follows, and otherwise provides the information required:

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JB & md
LESSOR GOV'T


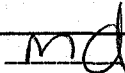
- i. A lease rate per square foot for the building, including fixed costs but excluding variable costs from line 27 of GSA Form 1217.
- ii. The annual cost per square foot for building operating costs, excluding indoor utilities. Lessor shall be responsible for outdoor utilities.
- iii. A gross lease rate per square foot as a summation of the amounts broken out in paragraphs i and ii above.

- (2) GSA Form 1217, Lessor's Annual Cost Statement (Attachment 2).
- (3) GSA Form 3518, Representations and Certifications (Exhibit F of Attachment 7).
- (4) A Building Operation Plan. Offerors shall submit a building operation plan with the Phase 1 offer. Such plan shall include a schedule of start-up and shutdown times for operation of each building system, such as lighting, heating, cooling, ventilation, and plumbing which is necessary for the operation of the building. Such plan shall be in operation on the effective date of the lease.
- (5) Plan for Subcontracting with Small, Small Disadvantaged, and Women Owned Small Businesses (if applicable).
- (6) Lump sum price for the Government Construction Field Office. The Offeror shall submit a detailed separate lump sum cost proposal to the Contracting Officer for a field office space adjacent to the project site with full utility and janitorial services in accordance with the requirements specified in Section 01590, PPD of this Solicitation For Offers. The proposed price, upon acceptance by the Government, will be incorporated into the lease and shall be used by the Government to authorize, at the Government's sole discretion, the Lessor to provide the field office space. Payment will be made upon acceptance of the work by the Government and submission of a proper invoice by the lessor. The cost of the field office space and utilities shall not be included in the rental rate.
- (7) A completed Certification of Seismic Compliance (Attachment 3).
- (8) Documents required by Paragraph 3.12 entitled, "Evidence of Capability to Perform".
- (9) If an offeror proposes to satisfy any requirement of the "Sprinkler System" specified in the PPD by providing an equivalent level of safety, the offeror must submit, for Government review and approval, a fire protection engineering analysis, performed by a qualified fire protection engineer, demonstrating that an equivalent level of safety for the offered building shall be provided. Offerors should contact the Contracting Officer for further information regarding Government review and approval of "equivalent level of safety" analyses.
- (10) Offeror shall complete the "Recycling Representation (FEB 1994) (Attachment 6)."
- (11) **Project Schedule** - During Phase II of the procurement each offeror shall submit a preliminary project schedule. The project schedule shall commence upon lease award, unless otherwise expressly agreed by the Lessor and the Government as stated in the lease. Within 10 days of lease award the project schedule for design construction shall be submitted by the lessor in accordance with requirements specified in the PPD Section 01000, Construction Schedule Section 01015 Design Requirements After Award, and Section 01310, Project Schedule. Reference to working days shall be based upon a 5-day work week (Monday through Friday), exclusive of federal holidays.
 - (a) For purposes of preparing the Preliminary Project Schedule, Offerors may assume that the Government's PPD represent complete construction documents for a the Building complying with the model Building Code. Offeror may assume that the work necessary to complete is limited to site-adapting the PPD to a specific site and making minor modifications as necessary to update the specific requirements to meet Building Code used by the local government authority having jurisdiction over construction on the site. If there are discrepancies between the PPD and the local code, the more stringent will apply.
 - (b) For purposes of preparing the Preliminary Project Schedule, Offerors will be advised to carefully review the PPD and make their own independent assessment of the effort required to prepare Site-Specific Construction Documents..
 - (c) **Preparation of Construction Documents (Site-Related)** - the Offeror is responsible for preparing complete Design and Construction Documents for all site-specific elements of the project including the design of the building foundation.
 - (d) Offerors shall consider design review time in preparation of their preliminary schedule set forth by Section 01015.

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- (e) **Local Approvals and Permits** –provide schedule information for each permit, approval, or authorization required. If multiple permits and/or approvals are required, list and provide schedule information for each as a separate, individual task item.
- (f) **Demolition** (if any required to prepare the site for new construction)
- (g) **Grading and Site Preparation**
- (h) **Construction** – provide breakdown of construction schedule into major elements such as Foundation, Steel Erection, Building Enclosure, Mechanical Systems, Interior Construction, Interior Finishes, and others as may be appropriate.
- (i) **Occupancy by Tenant Agency** – show as a milestone date.
- (j) **Other** – the Project Schedule should include any other information that the Offeror wishes the Government to consider as evidence of Offeror's ability to achieve the Government's desired occupancy schedule.

(12) See Solicitation Provisions below for additional instructions. If additional information is needed, the Contracting Officer should be contacted.

There will be no public opening of offers and all offers will be confidential until the lease has been awarded; however, the Government may release proposals outside the Government to a Government support contractor to assist in the evaluation of offers. Such Government contractors shall be required to protect the data from unauthorized disclosure. Offerors who desire to maximize protection of information in their offers may apply the restriction notice to their offers as prescribed in the provision entitled "Restriction on Disclosure and Use of Data, 52.215-12."

1.12 NEGOTIATIONS (JAN 1997)

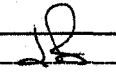
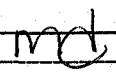
- (a) The Government reserves the right to award a lease pursuant to this solicitation based on offers submitted during Phase II. If no such award is made, negotiations will be conducted on behalf of the Government by the GSA Contracting Officer or other authorized representative. The GSA Contracting Officer is named on the cover of this solicitation. GSA will negotiate rental price for the initial term, any renewal periods, and any other aspect of the offer as deemed necessary.
- (b) The Offeror shall not enter into negotiations concerning the space leased or to be leased with representatives of Federal agencies other than the Contracting Officer or designee.
- (c) The Contracting Officer will conduct oral or written negotiations with all Offerors that are within the competitive range. The competitive range will be established by the Contracting Officer on the basis of cost or price and other factors (if any) that are stated in this solicitation and will include all offers that have a reasonable chance of being selected for award.
- (d) Offerors will be provided a reasonable opportunity to submit any cost or price, technical, or other revisions to their offers that may result from the negotiations. Negotiations will be closed with submission of "Best and Final" offers.

1.13 PRICE EVALUATION (PRESENT VALUE) (JAN 1997)

- (a) If annual CPI adjustments in operating expenses are included, Offerors are required to submit their offers with the total "gross" annual price per rentable square foot and a breakout of the "base" price per rentable square foot for services and utilities (operating expenses) to be provided by the Lessor. The "gross" price shall include the "base" price.
- (b) Offerors are required to submit plans and any other information to demonstrate that the rentable space yields BOMA Usable space within the required BOMA Usable range. The Government will verify the amount of BOMA Usable square footage and convert the rentable prices offered to BOMA Usable prices, which will subsequently be used in the price evaluation.
- (c) If the offer includes annual adjustments in operating expenses, the base price per BOMA Usable square foot from which adjustments are made will be the base price for the term of the lease, including any option periods.
- (d) Evaluation of offers will be on the basis of the annual price per BOMA Usable square foot, including any option periods. The Government will perform present value price evaluation by reducing the prices per BOMA Usable square foot to a composite annual BOMA Usable square foot price, as follows:

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- (1) Parking and wareyard areas will be excluded from the total square footage, but not from the price. For different types of space, the gross annual per square foot price will be determined by dividing the total annual rental by the total square footage minus these areas.
- (2) If annual adjustments in operating expenses will not be made, the gross annual per square foot price will be discounted annually at 8 percent to yield a gross present value cost (PVC) per square foot.
- (3) If annual adjustments in operating expenses will be made, the annual per square foot price, minus the base cost of operating expenses, will be discounted annually at 8 percent to yield a net PVC per square foot. The operating expenses will be both escalated at 4 percent compounded annually and discounted annually at 8 percent, then added to the net PVC to yield the gross PVC.
- (4) To the gross PVC will be added:

- The cost of Government provided services not included in the rental escalated at 4 percent compounded annually and discounted annually at 8 percent.

- The annualized (over the full term) per BOMA Usable square foot cost of any items which are to be reimbursed in a lump sum payment. (The cost of these items is present value; therefore, it will not be discounted.)

The sum of either (2) and (4) or (3) and (4), above, will be the per BOMA Usable square foot present value of the offer for price evaluation purposes.

1.14 AWARD (JAN 1997)

After conclusion of negotiations, the Contracting Officer will require the Offeror selected for award to execute the proposed lease prepared by GSA which reflects the proposed agreement of the parties. The proposed lease shall consist of the filled out Lease Form with specified attachments. The acceptance of the offer and award of the lease by the Government occurs upon notification of unconditional acceptance of the offer or execution of the lease by the GSA Contracting Officer and mailing or otherwise furnishing written notification or the executed lease to the successful Offeror.

2. AWARD FACTORS

2.1 AWARD FACTORS: GENERAL

The Contracting Officer will conduct oral or written negotiations with all Offerors that are within the competitive range. The competitive range will be established by the Contracting Officer on the basis of cost or price and other factors (if any) that are stated in this solicitation and will include all offers that have a reasonable chance of being selected for award. The Offerors will be provided a reasonable opportunity to submit any cost or price, technical, or other revisions to their offers that may result from the negotiations. Negotiations will be closed with submission of "Best and Final" offers.

2.2 OTHER FACTORS

The Government will make the award to the responsible offeror whose offer conforms to the Solicitation and offers the greatest value to the Government, price and technical factors considered. The combined weight of the technical factors is greater in importance than price in determining the greatest value to the Government.

This procurement will be conducted in two phases. Phase I will consist of evaluation of the technical qualification of offerors. The offerors will be evaluated with reference to the technical factors set forth in Paragraph 1.11, How To Offer, Phase I. Phase II will consist of evaluation of price and technical proposals as set forth in Paragraph 1.11, How To Offer, Phase II.

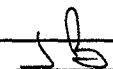

The combined weight of the technical factors is greater in importance than price in determining the greatest value to the Government. Award factors and subfactors are listed in descending order of importance.

PHASE I

1. Past Performance - This factor considers the extent of the Offeror's and Key Personnel (as identified below) past experience and the quality of the Offeror's past performance and Key Personnel (as identified below) on comparable projects during the last 10 years.

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- a. **Prior Experience on Comparable Projects** - This subfactor considers the quality of Offeror's and Key Personnel's past performance on comparable projects based upon information provided by references for the identified projects and information available to the Government. Significantly more preference shall be given to quality of Offeror's prior experience.
- b. **Quality of Prior Experience on Comparable Projects** - This subfactor considers the extent of Offeror's and Key Personnel's (as identified below) past experience of successful completion of one or more comparable projects within the last ten years of sufficient size, scope and complexity to illustrate the Offeror's ability to design, finance, construct, operate and maintain a laboratory facility.
- c. **Comparable** is defined as a project greater than or equal to 50,000 occupiable (52,978 rentable square feet) of similar scope and complexity (a laboratory, hospital, electronics fabrications facility or similar high technology facility). To the extent that the comparable project is a mixed used facility, at least 30,000 square feet of the facility must qualify as a high technology facility. Significantly more preference will be given to the extent of General Contractor's Experience.

2. **Quality of Location and Site** - This factor considers the features of the site listed as follows: (a) orientation of the building with respect to street frontage (single street frontage on the east site is preferred; (b) setbacks from the adjacent property lines; and (c) accessibility to the freeway.

- a. **Orientation of building with respect to street frontage** - Greater preference will be given to sites with a single street frontage facing east (with respect to the assumed north shown on the PPD). Street frontage may not occur on more than two sides of the site.
- b. **Set backs from the adjacent property lines** - Greater preference will be given to sites where all portions of the building footprint will be setback at least 100 feet from the adjacent property lines, assumed property lines, and right-of-way boundaries as illustrated in detail by the PPD (Information Package Diagram No. 2). All portions of the building footprint will be setback a minimum of 60 feet from the adjacent property lines, assumed property lines and right of way boundaries.
- c. **Freeway accessibility** - Greater preference will be given to proposed sites located within ½ driveable mile from a major interstate or freeway defined as a major highway with full control of vehicular access and with no crossings at grade. The distance will be measured along the center line of the interstate highway or freeway.

PHASE II

1. **Past Performance** (scores from Phase I will be carried over in their entirety, no further evaluation will be completed).
2. **Site** - Greater preference will be given to sites with an outstanding site design that maximizes the use of the environment. Access to roadways that lead to major highways are designed for ease of use. The landscaping plan is excellent, complements the site and building, and is consistent with the surrounding areas and provides visual interest.

3. MISCELLANEOUS

3.1 ALTERNATE PROPOSALS (BID OPTION 1)

The PPD illustrates a large vault (bid option 1) for which alternate proposals are required. For evaluation and negotiation, the offer shall state:

- (a) Itemized costs for lump sum payment not to be included in the rental rate, and
- (b) A rental rate which includes the costs of the large vault..
- (c) The Offeror must provide costs for both methods of evaluation on the lease proposal form in order to be considered for award. GSA may elect the option it deems most favorable.
- (d) In addition, the offer must also include the proposals listed below. Failure to include the following in the Phase II offer will result in rejection of the offer. Evaluated Future Modifications Mark-Up Rate. State a percentage mark-up rate to be applied to change orders performed under the Lease. Apply the rate to the estimated modification direct costs

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provided on the Form. (Provide the total estimated mark-up only, and not the total estimated equitable adjustment). This rate must include all prime and first tier subcontractor overheads, general and administrative costs, bonds, insurance, commission, profit, and all other indirect costs which may be associated with work performed under this Lease. Upon award of the Lease, the mark-up rate offered by the award shall be used in determining all equitable adjustments, additive or deductive, which may be negotiated under the Lease. The mark-up rate shall also be used, when applicable, in determining only entitlement claimed by award under the Disputes clause. Evaluation of a mark-up rate shall not obligate the Government to increase the value of the lease work. Failure to offer a mark-up rate shall result in rejection of the offer.

- (e) Estimated Delay Costs. State a dollar-sum daily rate for compensable delays to which the Offeror may be entitled subsequent to award of the Lease. The rate must include all costs which Offeror may claim or compensable delays, including general contractor and subcontractor field and home office overheads. Upon award of the Lease, the rate offered by the award shall be used in determining the awardee's entitlement for Government caused delay, if any, by multiplying the rate by the total number of compensable work days. Evaluation of estimated delay costs shall not obligate the Government to relieve the Lessor of its burden to establish entitlement to compensation for delays which may occur on the project. Failure to offer a contract delay rate shall result in rejection of the offer.

3.2 ENERGY COST SAVINGS (JAN 1997)

- (a) All offerors are encouraged to contact an energy service company qualified under the Energy Policy Act to perform Energy Savings Performance Contracts (ESPC) to determine whether opportunities for cost effective energy improvements to the space are available without compromising the requirements set forth in the PPD
- (b) A list of energy service companies qualified under the Energy Policy Act to perform ESPCs, as well as additional information on cost effective energy efficiency, renewables, and water conservation may be obtained by writing to: US Department of Energy, Federal Energy Management Program, EE-90, Washington, DC 20585 or by calling the FEMP HELP DESK at 1-800-566-2877 and asking for the ESPC qualified list.

3.3 UTILITIES: SEPARATE FROM RENTAL (JAN 1997)

- (a) Utilities within the building are excluded from the rental consideration. The Offeror must obtain a statement from a registered professional engineer stating that all heating, ventilation, air conditioning, plumbing, and other energy intensive building systems can operate under the control conditions stated in this SFO. The statement must also identify all building systems which do not conform to the system performance values, including the "recommended" or "suggested" values of ASHRAE Standard 90.1, Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings, or more restrictive local/state codes.
- (b) The Lessor shall provide separate meters for utilities to be paid for by the Government. The Lessor shall furnish in writing to the Contracting Officer, prior to occupancy by the Government, a record of the meter numbers and verification that the meters measure Government usage only. Proration is not permissible. In addition, an automatic control system shall be provided to assure compliance with heating and air conditioning requirements (see "Mechanical, Electrical, Plumbing" section of this solicitation).

3.4 OPERATING COSTS BASE (JAN 1997)

The base for the operating costs adjustment will be established during negotiations based upon BOMA Usable square feet.

3.5 OPERATING COSTS, GSAR 552.270-23 (JUN 1985)

- (a) Beginning with the second year of the lease and each year after, the Government shall pay adjusted rent for changes in costs for cleaning services, supplies, materials, maintenance, trash removal, landscaping, water, sewer charges, heating, electricity, and certain administrative expenses attributable to occupancy. Applicable costs listed on GSA Form 1217, Lessor's Annual Cost Statement, when negotiated and agreed upon, will be used to determine the base rate for operating costs adjustment.
- (b) The amount of adjustment will be determined by multiplying the base rate by the percent of change in the Cost of Living Index. The percent change will be computed by comparing the index figure published for the month prior to the lease commencement date with the index figure published for the month which begins each successive 12-month period. For example, a lease which commences in June of 1985 would use the index published for May of 1985 and that figure would be compared with the index published for May of 1986, May of 1987, and so on, to determine the percent change. The Cost of Living Index will be measured by the U.S. Department of Labor revised Consumer Price Index for wage earners and clerical workers, U.S. City average, all items figure, (1982-84 = 100) published by the Bureau of Labor

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Statistics. Payment will be made with the monthly installment of fixed rent. Rental adjustments will be effective on the anniversary date of the lease. Payment of the adjusted rental rate will become due on the first workday of the second month following the publication of the Cost of Living Index for the month prior to the lease commencement date.

- (c) If the Government exercises an option to extend the lease term at the same rate as that of the original term, the option price will be based on the adjustment during the original term. Annual adjustments will continue.
- (d) In the event of any decreases in the cost of living index occurring during the term of the occupancy under the lease, the rental amount will be reduced accordingly. The amount of such reductions will be determined in the same manner as increases in rent provided under this clause.
- (e) The offer must clearly state whether the rental is firm throughout the term of the lease or if it is subject to annual adjustment of operating costs as indicated above. If operating costs will be subject to adjustment, it must be specified on the GSA Form 1364, Proposal to Lease Space, attached to this solicitation. If the offer is subject to annual adjustment of operating costs, Government shall pay adjusted rent in accordance with the Operating Costs paragraph of the Lease Form. Applicable costs listed on GSA Form 1217, Lessor's Annual Cost Statement, when negotiated and agreed upon, will be used to determine the base rate for operating costs adjustment. The base for the operating costs adjustment will be established during negotiations based upon the amount of occupiable square feet.

3.6 RENTABLE SPACE (JUN 1994)

Rentable space is the area for which a tenant is charged rent. It is determined by the building owner and may vary by city or by building within the same city. The rentable space may include a share of building support/common areas such as elevator lobbies, building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. The rentable space generally does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts and vertical ducts.

3.7 BOMA USABLE SQUARE FEET (JAN 1997)

(a) For the purposes of this solicitation, the Government recognizes the BOMA (Building Owners and Managers Association) International standard (ANSI/BOMA Z65.1-1996) definition for Office Area, which means "the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed."

(b) BOMA Usable Square Feet shall be computed by measuring the area enclosed by the finished surface of the room side of corridors (corridors in place as well as those required by local codes and ordinances to provide an acceptable level of safety and/or to provide access to essential building elements) and other permanent walls, the dominant portion (see Z65.1) of building exterior walls, and the center of tenant-separating partitions. Where alcoves, recessed entrances, or similar deviation from the corridor are present, BOMA Usable Square Feet shall be computed as if the deviation were not present.

3.8 COMMON AREA FACTOR (JAN 1997)

If applicable, Offerors shall provide the Common Area Factor (a conversion factor(s) determined by the building owner and applied by the owner to the BOMA Usable Square Feet to determine the rentable square feet for the offered space).

3.9 APPURTENANT AREAS

The right to use appurtenant areas and facilities is included in this Lease. The Government reserves the right to post Government rules and regulations where the Government leases space.

3.10 EVIDENCE OF CAPABILITY TO PERFORM

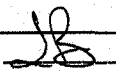
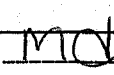
Upon request of Best and Final Offers, Offerors shall submit to the contracting officer:

(a) Satisfactory evidence of at least a conditional commitment of funds in an amount necessary to prepare the space. Such commitments must be signed by an authorized bank officer and at a minimum must state: amount of loan; term in years; annual percentage rate; length of loan commitment.

(b) Evidence of ownership or control of site. Offeror must demonstrate evidence of ownership through a copy of recorded grant deed. In the event that the Offeror does not currently own the site, Offeror must demonstrate to the Government that it has control of site through a valid, binding legally enforceable option to purchase the site.

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3.11 SUBSTITUTION OF KEY PERSONNEL

The Offeror's Key Personnel cannot change after receipt of Phase I offers without the written approval of the GSA Contracting Officer. In the event that Offeror proposes any substitutions in Key Personnel already evaluated by the Government, the Offeror shall provide the Government with the information required for that position as stated in Part A of the Information Package. Written notification of a proposed change in the Offeror's Key Personnel must be submitted timely in order to allow sufficient time for proper evaluation by the Government.

If a change in the Key Personnel occurs during Phase II, the Government, at its sole discretion, may eliminate the Offeror from further consideration for award. At the Government's sole discretion, the proposed substituted Key Personnel may be reevaluated. If changes in the Key Personnel occur after award, the Offeror shall provide the Government with the information required for that position as stated in Part A of the Information Package. Written notification of a proposed change in the Offeror's Key Personnel must be submitted timely in order to allow sufficient time for proper evaluation by the Government. If there are any changes to the members of the qualified team, at any time during this procurement including pre-award, post award and construction, the change must have prior GSA Contracting Officer Approval. This lease contract is subject to termination unless all members of the Lessor's team have prior GSA Contracting Officer approval.

No increase in contract prices or delay in contractor performance will be allowed as a result of the Lessor's substitution, addition, or replacement of key personnel.

4. SAFETY AND ENVIRONMENTAL MANAGEMENT

4.1 ASBESTOS (OCT 1996)

The leased space shall be free of all asbestos containing materials.

4.2 INSPECTION - RIGHT OF ENTRY (552.270-16 - AUG 1992)

(a) At any time and from time to time after receipt of an offer (until the same has been duly withdrawn or rejected), after acceptance thereof and during the term, the agents, employees and contractors of the Government may, upon reasonable prior notice to Offeror or Lessor, enter upon the offered premises or the premises, and all other areas of the building access to which is necessary to accomplish the purposes of entry, to determine the potential or actual compliance by the Offeror or Lessor with the requirements of the solicitation or this lease, which purposes shall include, but not be limited to: (1) inspecting, sampling and analyzing of suspected asbestos-containing materials and air monitoring for asbestos fibers; (2) inspecting the heating, ventilation and air conditioning system, maintenance records, and mechanical rooms for the offered premises or the premises; (3) inspecting for any leaks, spills, or other potentially hazardous conditions which may involve tenant exposure to hazardous or toxic substances; and (4) inspecting for any current or past hazardous waste contamination, to ensure that all necessary remediation has been completed in accordance with Federal, State and local law.

(b) Nothing in this clause shall be construed to create a Government duty to inspect for toxic materials or to impose a higher standard of care on the Government than on other lessees. The purpose of this clause is to promote the ease with which the Government may inspect the building. Nothing in this clause shall act to relieve the Lessor of any duty to inspect or liability which might arise as a result of Lessor's failure to inspect for or correct a hazardous condition.

5. SOLICITATION PROVISIONS

5.1 PREPARATION OF OFFERS (552.270-1 - APR 1985)

- (a) Offerors are expected to read all parts of this solicitation.
- (b) Offers must be (1) submitted on the forms prescribed and furnished by the Government as a part of this solicitation or on copies of those forms, and (2) signed. The person signing an offer must initial each erasure or change appearing on any offer form. If the offeror is a partnership, the names of the partners composing the firm must be included with the offer.
- (c) Offers will be construed to be in full and complete compliance with this solicitation unless the offer describes any deviation in the offer.

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5.2 EXPLANATION TO PROSPECTIVE OFFERORS (552.270-2 - JUNE 1985)

Any prospective offeror desiring an explanation or interpretation of the solicitation should request it in writing. Oral explanations or instructions given to a prospective offeror will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offeror.

5.3 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF OFFERS (552.270-3 - AUG 1995)

(a) Any offer received at the office designated in the solicitation after the exact time specified for receipt of initial offers will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail or, if authorized by the solicitation, was sent by telegram or via facsimile and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of offers. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) A modification resulting from the Contracting Officer's request for "best and final" offers received after the date and time specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after timely receipt at the Government installation.

(c) The only acceptable evidence to establish the date of mailing of a late offer or modification sent either by U.S. Postal Service registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer or modification shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the offer wrapper or other documentary evidence of receipt maintained by the installation.

(e) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(f) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(g) Offers may be withdrawn by written notice or telegram (including mailgram) received at any time before award. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision entitled "Facsimile Proposals." Offers may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the offer before award.

5.4 PROHIBITED CONDUCT (552.203-71 - SEP 1990)

(a) Prohibited conduct. The Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), provides that during the conduct of any Federal agency procurement of property or services, no competing contractor or officer, employee, representative, agent, or consultant of competing contractor shall knowingly -

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- (1) (1) Make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of the agency, except as provided in FAR 3.104-6(b);
- (2) Offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of the agency; or
- (3) Solicit or obtain, directly or indirectly, from any officer or employee of the agency, prior to the award of a contract any proprietary or source selection information regarding the procurement.

(b) Penalties. Civil penalties for violation of these prohibitions are up to \$100,000 for an individual or \$1,000,000 for an Offeror or prospective Offeror other than an individual. Criminal penalties are up to 5 years imprisonment and/or a fine in accordance with Title 18, United States Code.

5.5 REQUIREMENT FOR CERTIFICATE OF PROCUREMENT INTEGRITY (52.203-72 — DEVIATION —)

(Applies to leases with a contract value exceeding \$100,000 over the term, including option periods.)

- (a) Definitions. The definitions at FAR 3.104-4 are hereby incorporated in this provision, except that "property" also means acquisitions of leasehold interests in real property.
- (b) Certifications. The officer or employee responsible for the offer submitted in response to this solicitation shall submit the certification in Attachment 6 to this SFO upon the request of the Contracting Officer.
- (c) Pursuant to FAR 3.104-9(d), the Offeror may be requested to execute additional certifications at the request of the Government. Failure of an Offeror to submit the additional certification may cause its offer to be rejected.
- (d) A certification containing a disclosure of a violation or possible violation will not necessarily result in the withholding of award under this solicitation. However, the Government, after the evaluation of the disclosure, may cancel this procurement or take any other appropriate actions in the interest of the Government, such as disqualification of the Offeror.
- (e) In making the certification in paragraph (2) of the certificate, the officer or employee of the competing contractor responsible for the offer may rely upon a one-time certification from each individual required to submit a certification to the competing Contractor, supplemented by periodic training. These certifications shall be obtained at the earliest possible date after an individual required to certify begins employment or association with the Contractor. If a Contractor decides to rely on a certification executed prior to the suspension of section 27 (i.e., prior to December 1, 1989), the Contractor shall ensure that an individual who has so certified is notified that section 27 has been reinstated. These certifications shall be maintained by the Contractor for 6 years from the date of a certifying employee's employment with the company ends or, for an agent, representative, or consultant, 6 years from the date such individual ceases to act on behalf of the Contractor.
- (f) Certifications under paragraphs (b) and (c) of this provision are material representations of fact upon which reliance will be placed in awarding a contract.

5.6 RESTRICTION ON DISCLOSURE AND USE OF DATA (52.215-12 - APR 1984)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

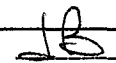
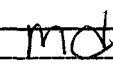
Offerors or quoters who include in their proposals or quotations data that they do not want disclosed to the public for any purpose or used by the Government except for evaluation purposes, shall -

- (a) Mark the title page with the following legend: "This proposal or quotation includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed — in whole or in part — for any purpose other than to evaluate this proposal or quotation. If, however, a contract is awarded to this offeror or quoter as a result of — or in connection with — the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]"; and
- (b) Mark each sheet of data it wishes to restrict with the following legend: "Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal or quotation."

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5.7 REQUIREMENT FOR RADON CERTIFICATION

(Applies to leases of more than 10,000 square feet of general purpose office space or more than 20,000 square feet of warehouse space.)

If space offered for lease to the Government is in ground contact or up to and including the second floor, the successful offeror (Lessor) shall submit to the Contracting Officer the certification in Attachment 6 to this SFO, as specified in the paragraph "Radon Measurement and Corrective Action" of the Lease Form.

5.8 PREAWARD EQUAL OPPORTUNITY COMPLIANCE REVIEW (52.222-24 - APR 1984)

An award in the amount of \$1 million or more will not be made under this solicitation unless the offeror and each of its known first-tier subcontractors (to whom it intends to award a subcontract of \$1 million or more) are found, on the basis of a compliance review, to be able to comply with the provisions of the Equal Opportunity clause of this solicitation.

5.9 LEASE AWARD (552.270-5 - JUN 1985)

- (a) The Government will award a lease resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation, will be most advantageous to the Government, price and other factors, specified elsewhere in this solicitation, considered.
- (b) The Government may (1) reject any or all offers, (2) accept other than the lowest priced offer, and (3) waive informalities and minor irregularities in offers received.
- (c) Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the Government.
- (d) The unconditional acceptance of an offer establishes a valid contract.
- (e) In the event the average net annual rental (gross rent less line 27 of GSA Form 1217) exceeds \$1.93 million, a lease award will not be made until the project has been approved by the U.S. Congress.

5.10 PARTIES TO EXECUTE LEASE (552.270-6 - AUG 1992)

- (a) If the lease is executed by an attorney, agent, or trustee on behalf of the Lessor, an authenticated copy of his power of attorney, or other evidence to act on behalf of the Lessor, must accompany the lease.
- (b) If the Lessor is a partnership, the lease must be signed with the partnership name, followed by the name of the legally authorized partner signing the same, and, if requested by the Government, a copy of either the partnership agreement or current Certificate of Limited Partnership shall accompany the lease.
- (c) If the Lessor is a corporation, the lease must be signed with the corporate name, followed by the signature and title of the officer or other person signing the lease on its behalf, duly attested, and, if requested by the Government, evidence of this authority so to act shall be furnished.

5.11 SERVICE OF PROTEST (52.233-2 - OCT 1995)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

- (a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO) or the General Services Administration Board of Contract Appeals (GSBCA), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from the Contracting Officer at the address shown in the paragraph of this solicitation entitled "How to Offer."
- (b) The copy of any protest shall be received in the office designated above on the same day a protest is filed with the GSBCA or within one day of filing a protest with the GAO.

5.12 FLOOD PLAINS AND WETLANDS (APR 1984)

An award of contract will not be made for a property located within a base flood plain or wetland unless the Government has determined it to be the only practicable alternative. For purposes of this paragraph, "property" is defined as the portion of the Site upon which the building pad, sixty feet surrounding the building pad and the primary means of egress and ingress to the Site from the primary roadway. For purposes of this paragraph, Offerors shall provide to the Contracting Officer with the Phase I

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Offer a written certification identifying the flood zone designation for the property which will be the site of the proposed building. As part of its certification, the Offeror shall also submit a currently effective Flood Insurance Rate Map ("FIRM") or an officially revised Letter of Map Revision ("LOMR") for the property which will be the site of the proposed building. The Government reserves the right to require the certification to be from a registered professional engineer.

NOTE: THE GOVERNMENT WILL NOT RELY ON PRELIMINARY FIRMS OR CONDITIONAL LOMRS.

5.13 REQUIREMENT FOR RECYCLING REPRESENTATION

(Applies to leases which involve both more than 10,000 square feet of space and terms which exceed 6 months) Representations. The apparent successful offeror shall submit the representation in Attachment 7 to this SFO.

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6. ATTACHMENTS

The following items are attached and made a part of this Solicitation for Offers as if set forth in full herein:

Attachment 1 — Standard Form 1364, Proposal to Lease Space

Attachment 2 — Standard Form 1217, Lessor's Annual Cost Statement

Attachment 3 — Certification of Seismic Compliance

Attachment 4 — Certificate of Procurement Integrity

Attachment 5 — Radon Certification

Attachment 6 — Recycling Certification

Attachment 7 — Pro Forma U.S. Government Lease for Real Property

Attachment 8 - Cleaning Work and Quality Requirements

Attachment 9 - Project Program Documents

Attachment 10 - Davis-Bacon Wage Rates

Attachment 11 - List of Chemicals

Attachment 12 Smith Group Memorandum dated 9/12/00

Note: List of Chemicals currently used in the laboratory is provided for informational purposes only and is subject to change at the discretion of the Government at any time prior to or after award.

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ATTACHMENT 3

Certification of Seismic Compliance

Date: October 2, 2000

Preparer certifies that the premises located at

Vista Oaks Business Park, Parcel 6, City of Vista, CA

will be evaluated for the ability to meet the seismic performance objectives for life safety as outlined in one of the following:

1. 1976 (or later) edition of the Uniform Building Code (UBC).
2. 80 percent of the seismic force levels in accordance with the current edition of UBC.
3. "Standards of Seismic Safety for Existing Federally Owned or Leased Buildings, ICSSC RP 4."

The results of said evaluation show that the subject building

☒ will

☐ does,

☐ does not

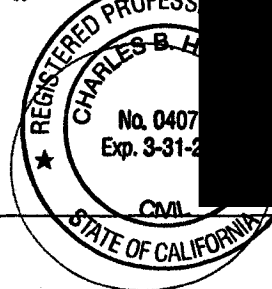
meet one

Name: Charles B. Hope, Jr.

License No.: 40784

Expiration Date: 03-31-03

Affix stamp and



Comments:

A complete evaluation will be made after award of contract. Any deficiencies will be corrected in order to comply with current code.

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ATTACHMENT 4

Certificate of Procurement Integrity

Joseph Beauchamp

- (1) I, (Name of certifier), am the officer or employee responsible for the preparation of this offer and hereby certify that to the best of my knowledge and belief, with the exception of any information described in this certificate, I have no information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Office of Federal Procurement Policy Act, as amended* (41 U.S.C. 423), (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement [9CA01019 (b) (7)(F)].
- (2) As required by subsection 27(e)(1)(B) of the Act, I further certify that, to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of Western Devcon who has participated personally and substantially in the preparation or submission of this offer has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.
- (3) Violations or possible violations: (Continue on plain bond paper if necessary and label Certificate of Procurement Integrity (Continuation Sheet)), ENTER "NONE" IF NONE EXISTS
- None

(4) I agree that, if awarded a contract under this solicitation, the certifications required by subsection 27(e)(1)(B) of the Act shall be maintained in accordance with paragraph (f) of this provision

(b) (6)

October 9, 2000

[Signature of officer or employee responsible for offer]

Date

Joseph Beauchamp, Vice President

[Typed name of officer or employee responsible for offer]

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

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Attachment 5 Radon Certification

(a) I hereby certify that the portion of the space offered for lease or acquisition by the Government that is in ground contact or closest to the ground, up to and including the second floor (if space is offered on floor 3 and/or above, no measurements are required), has been measured for radon as specified in the paragraph "Radon Measurement and Corrective Action (DEC 1993)" of the solicitation. Radon detectors were placed throughout the required area to ensure each detector covered no more than 2,000 square feet of space. Radon analyses were performed by a laboratory successfully participating in the Environmental Protection Agency-sponsored Radon Measurement Proficiency Program. The laboratory analysis is hereby submitted.

(b) The highest radon level measured was _____.

(c) The measurement method used was _____.

(b) (6)

[Signature of Lessor, officer or employee
responsible for the offer]

Joseph Beauchamp, Vice President

[Typed name of Lessor, officer or employee
responsible for the offer]

October 9, 2000
Date

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Attachment 6
Recycling Certification

The Offeror represents that (check one of the following)--

(a) State and/or local law, code or ordinance require recycling, and

The offeror has a recycling program [],

The offeror will initiate a recycling program ☒.

OR

(b) State and/or local law, code or ordinance do not require recycling, and

The offeror has/will initiate a recycling program [],

The offeror will not initiate a recycling program because it is economically unfeasible to establish a recycling program [].

(b) (6)

[Signature of officer or employee responsible for offer]

October 9, 2000

Date

Joseph Beauchamp, Vice President

[Typed name of officer or employee responsible for offer]

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ATTACHMENT 7

Pro Forma

U.S. Government Lease for Real Property

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LEASE No. _____

DATE OF LEASE _____

U.S. GOVERNMENT LEASE FOR REAL PROPERTY

THIS LEASE is entered into this date between _____
whose address is: _____
and whose interest in the property hereinafter described is that of _____, hereinafter called "Lessor,"
and the UNITED STATES OF AMERICA, hereinafter called the "Government."

The parties hereto for the considerations hereinafter mentioned, covenant and agree as follows:

1. General Terms

- (a) Building: _____
- (b) Premises: A total of _____ rentable square feet of office and related space consisting of _____, as shown on the plans attached hereto and made a part hereof as Exhibit G, together with _____ reserved parking places.
 - (1) Occupiable Square Feet: _____
 - (2) Range of occupiable square feet solicited: _____
 - (2) Common Area Factor: _____
 - (3) Percentage of Occupancy for tax adjustments: _____
- (c) Lease Term: _____ () years.
- (d) Firm Term: _____ () years.
- (e) Required Delivery Date: _____
- (f) Rent: _____ (\$ _____) per year (_____ per month).
- (g) Payee and Address: _____
- (h) Base rate for operating cost adjustments: _____ (\$ _____) per occupiable square foot.
- (i) Adjustment for vacant premises: _____
- (j) Address of Lessor: _____
- (k) Address of Government: _____

2. DEFINITIONS (552.270-10 - deviation)

The following terms and phrases (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this lease shall have the respective meanings hereinafter specified:

- (a) "Commencement Date" means the first day of the term determined in accordance with Paragraph 3 below.
- (b) The "Common Area Factor" set forth in General Terms is a conversion factor applied to the Occupiable Space to determine the Rentable Space. The Common Area Factor includes a share of building support/common areas such as elevator lobbies, building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. The Common Area Factor does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts and vertical ducts
- (c) "Contract" and "Contractor" means "Lease" and "Lessor," respectively.
- (d) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (e) "Excusable Delays" mean delays arising without the fault or negligence of Lessor and Lessor's subcontractors and suppliers at any tier, and shall include, without limitation, (1) acts of God or of the public enemy, (2) acts of the United States of America in either its sovereign or contractual capacity, (3) acts of another contractor in the performance of a contract with the Government, (4) fires, (5) floods, (6) epidemics, (7) quarantine restrictions, (8) strikes, (9) freight embargoes, (10) unusually severe weather, or (11) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.

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- (f) "Lessor" means the sub-lessor if this lease is a sublease.
- (g) "Lessor shall provide" means the Lessor shall furnish and install at Lessor's expense.
- (h) "Modified Design-Build" means the process by which the Lessor will complete and take responsibility for the design and construction of the facility, based upon the Government's Project Program Documents (PPD), for a fixed cost included within his offer. In comparison to other "design-build" projects, the "modified design-build" process set forth by the PPD significantly limits the Lessor's latitude to develop an alternate design that is not substantially similar in all respects to the design illustrated by the PPD.

The Government's PPD describes a building design that is complete in many respects (for instance, above-grade superstructure and interior design) and requires additional design development by the Lessor in other respects (for instance, foundations, site development, and other site-specific issues).

Where the PPD describes a detailed, nearly complete building design:

1. At his sole expense, the Lessor shall "site adapt" the Government's PPD design, taking responsibility for correcting and completing the Government's PPD design as necessary to provide a complete and usable facility, consistent with and substantially similar to the facility described by the PPD design.
2. The Lessor shall make modifications to the PPD design only as necessary to comply with local codes, to adapt to the physical features and conditions found at the site, and to enhance the constructibility of the design. All modifications to the PPD design must be approved by the Contracting Officer:
 - a) Discretionary modifications are not encouraged or desired by the Government. To gain the Government's approval, discretionary modifications must offer clear benefit to the Government, not result in reductions in quality or features when compared to the PPD design, be evolutionary advancements of the PPD design, and remain faithful to and consistent with the overall functional and aesthetic features of the PPD design. In and of themselves, reduction in cost to the Government and/or acceleration of the design and construction schedule shall not be considered as providing adequate benefit to the Government to justify acceptance of a discretionary modification. The Contracting Officer may refuse to approve discretionary modifications for any reason.
 - b) Where modifications to the PPD design cannot be avoided due to conditions inherent to the specific site and/or local code requirements, preference will be given to modifications that require the least changes to the PPD design, are evolutionary advancements of the PPD design, and are faithful to the functional and aesthetic features of the PPD design. The Government may require the Lessor to prepare multiple alternate design modification proposals, at the Lessor's sole expense, before granting approval to any particular modification.
3. Approved modifications, and/or corrections, expansions, and supplements to the Government's PPD design shall be designed and built by the Lessor without additional cost to the Government.

Where the PPD design requires additional design development (particularly in relation to the foundations, below-grade piping and conduit systems, site development, and other site-specific work):

1. At his sole expense, the Lessor shall further develop, expand upon, supplement, and complete the Government's PPD design as necessary to provide a complete and usable facility.
2. In further developing and completing the project design, the Lessor shall utilize the PPD design as a starting point, advancing the design from the level of detail and completion provided to that necessary to construct a complete and usable facility.
3. The absence of specific, detailed design criteria in the PPD does not, by itself, indicate that a built feature is not required to provide a complete and usable facility. The Lessor, acting as Architect and/or Engineer of Record, shall utilize professional care and judgment in determining whether additional features are desirable and necessary. Through its periodic in-progress reviews of the Lessor's construction documents, the Government may require the Lessor to provide site-specific features for which the specific need could not be determined in advance of the Lessor's site development design effort.

The Lessor's offer shall include all costs and risk – including design and construction costs – associated with undertaking and completing this modified design-build project. In preparing his offer, the Lessor shall utilize due diligence to evaluate the impact that site-specific conditions, local codes and their interpretations, the nature of the PPD and level of effort required to complete and correct it for use as construction documents, and other similar factors may have upon his price proposal.

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Where the Government's PPD describes internally conflicting or mutually exclusive requirements, the Government shall assume that the Lessor's price proposal includes the more costly of the requirements unless the offer describes in detail any deviation from this assumption.

In undertaking his "modified design-build" responsibilities, the Lessor shall comply with the requirements set forth by Division 1 of the Government's PPD specifications.

(i) "Notice" means written notice sent by certified or registered mail, Express Mail or comparable service, or delivered by hand. Notice shall be effective on the date delivery is accepted or refused.

(j) "Occupiable Space" is that portion of rentable space that is available for a tenant's personnel, equipment, and furnishings and is the method of measurement for the area for which the Government will evaluate offers. Unless otherwise noted, all references in this Lease to square feet shall mean occupiable square feet. Occupiable Space is determined as follows:

(1) If the space is on a single tenancy floor, compute the inside gross area by measuring between the inside finish of the permanent exterior building walls or from the face of the convectors (pipes or other wall-hung fixtures) if the convector occupies at least 50 percent of the length of exterior walls.

(2) If the space is on a multiple tenancy floor, measure from the exterior building walls as above and to the room side finish of the fixed corridor and shaft walls and/or the center of tenant-separating partitions.

(3) In all measurements, make no deductions for columns and projections enclosing the structural elements of the building and deduct the following from the gross area including their enclosing walls:

- (i) toilets and lounges,
- (ii) stairwells,
- (iii) elevators and escalator shafts,
- (iv) building equipment and service areas,
- (v) entrance and elevator lobbies,
- (vi) stacks and shafts, and
- (vii) corridors in place or required by local codes and ordinances and/or required by GSA to provide an acceptable level of safety and/or to provide access to all essential building elements. (Corridors deducted to determine occupiable space may or may not be separated by ceiling high partitions).

(k) "Premises" means the Premises described in General Terms.

(l) "Rentable Space" is the area for which a tenant is charged rent. Rentable Area is determined by multiplying Occupiable Space by the Common Area Factor.

(m) "Substantially complete" and "substantial completion" means that the work, the common and other areas of the building, and all other things necessary for the Government's access to the Premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment. In order to be considered substantially complete, the Premises and Building must have a current occupancy permit issued by the local jurisdiction. If the local jurisdiction does not issue occupancy permits, Lessor shall request the contracting officer to determine what alternate documentation is acceptable.

(n) "Work" means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by the Government as specified in this lease.

(o) Additional definitions are in Section 01010 of the Project Program Documents (PPD).

3. TERM AND USE

(a) Lessor hereby leases the Premises and its appurtenances to the Government for the Lease Term set forth in General Terms, beginning on the day the Premises is accepted by the Government as substantially complete and ready for occupancy. The actual dates will be established by supplemental lease agreement upon delivery of the Premises..

(b) When the Lessor has completed all alterations, improvements, and repairs necessary to meet the requirements of the lease, the Lessor shall notify the Contracting Officer. The Contracting Officer or designated representative shall promptly inspect the space. The Government will accept the space and the lease term will begin after determining that the space is Substantially Complete and contains the required occupiable square footage.

(c) The Premises shall be used for such purposes as may be determined by the Government.

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The right to use appurtenant areas and facilities is included. The Government reserves the right to post Government rules and regulations where the Government leases space.

4. RENT

(a) The Government shall pay the Rent set forth in General Terms monthly in arrears. Rent for a lesser period shall be prorated. Rent checks shall be made payable to the Payee specified in General Terms.

(b) The occupiable square footage delivered will be confirmed by:

- (1) the Government's measurement of plans submitted by Lessor as approved by the Government, and an inspection of the space to verify that the delivered space is in conformance with such plans or
- (2) a mutual on-site measurement of the space, if the Contracting Officer determines that it is necessary.

(c) Payment will not be made for space which is in excess of the amount of occupiable square footage solicited.

(d) If it is determined that the amount of occupiable square footage actually delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of occupiable space delivered and the annual rental will be adjusted as follows:

Occupiable square feet not delivered multiplied by the occupiable square foot (OSF) rate equals the reduction in annual rent. The occupiable square foot rate is determined by dividing the total annual rental by the occupiable square footage set forth in the lease.

OSF Not Delivered X Rate per OSF = Reduction in Annual Rent.

(e) Lessor shall furnish to the Government, as part of the rental consideration, the following:

(1) All labor, materials, equipment, design, professional fees, permit fees, inspection fees, utilities, construction drawings (including, without limitation, plans and specifications), construction costs and services and all other similar costs and expenses associated with constructing the laboratory in accordance with the Government's PPD; provided that the Government shall make payments for lump sum items identified in _____ in the amounts specified in such paragraph and that unit cost adjustments shall be made in accordance with paragraph "Unit Cost Adjustments" if the delivered quantities of items listed in such paragraph differ from quantities specified in this lease.

(2) All costs associated with services, utilities (exterior only), maintenance, repair, replacement, inspections, improvements and other requirements of this lease.

(3) All parking spaces required in the description of the Premises or required by local code, together with all appurtenant improvements and facilities.

(f) Rent shall begin upon acceptance for occupancy by the government as follows: space accepted between the 1st and 14th of any month shall be deemed payable from the first of that month; space accepted between the 15th and 31st of any month shall be deemed payable from the 15th of that month, regardless of actual occupancy. GSA pays all rents in arrears; therefore, if a lessor's space was accepted for occupancy as of the first of the month, the first rental check will be received approximately the first of the next month. Space accepted on or after the 15th shall not be paid until the first of the second month following occupancy. All rental payments shall be retroactive to the original acceptance period.

(g) As of January 1, 1999, all rental payments MUST be made by Electronic Funds Deposit. The Contracting Officer will advise all awarded lessors regarding bank account deposit set-up procedures.

5. OPERATING COSTS, GSAR 552.270-23 (JUN 1985)

(a) Beginning with the second year of the lease and each year after, the Government shall pay adjusted rent for changes in costs for cleaning services, supplies, materials, maintenance, trash removal, landscaping, water, sewer charges, heating, electricity, and certain administrative expenses attributable to occupancy. Applicable costs listed on GSA Form 1217, Lessor's Annual Cost Statement, when negotiated and agreed upon, will be used to determine the base rate for operating costs adjustment.

(b) The amount of adjustment will be determined by multiplying the base rate by the percent of change in the Cost of Living Index. The percent change will be computed by comparing the index figure published for the month prior to the lease commencement date with the index figure published for the month which begins each successive 12-month period. For example, a lease which commences in June of 1985 would use the index published for May of 1985 and that figure would be compared with the index published for May of 1986, May of 1987, and so on, to determine the percent change. The Cost of Living Index will be measured by the U.S. Department of Labor revised Consumer Price

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Index for wage earners and clerical workers, U.S. City average, all items figure, (1982-84 = 100) published by the Bureau of Labor Statistics. Payment will be made with the monthly installment of fixed rent. Rental adjustments will be effective on the anniversary date of the lease. Payment of the adjusted rental rate will become due on the first workday of the second month following the publication of the Cost of Living Index for the month prior to the lease commencement date.

- (c) If the Government exercises an option to extend the lease term at the same rate as that of the original term, the option price will be based on the adjustment during the original term. Annual adjustments will continue.
- (d) In the event of any decreases in the cost of living index occurring during the term of the occupancy under the lease, the rental amount will be reduced accordingly. The amount of such reductions will be determined in the same manner as increases in rent provided under this clause.
- (e) The offer must clearly state whether the rental is firm throughout the term of the lease or if it is subject to annual adjustment of operating costs as indicated above. If operating costs will be subject to adjustment, it must be specified on the GSA Form 1364, Proposal to Lease Space, attached to this solicitation. If the offer is subject to annual adjustment of operating costs, Government shall pay adjusted rent in accordance with the Operating Costs paragraph of the Lease Form. Applicable costs listed on GSA Form 1217, Lessor's Annual Cost Statement, when negotiated and agreed upon, will be used to determine the base rate for operating costs adjustment. The base for the operating costs adjustment will be established during negotiations based upon the amount of occupiable square feet.

6. TAX ADJUSTMENT GSAR 552.270-24 (CALIFORNIA STANDARD 10/98)

- (a) For the purpose of this Tax Adjustment clause:

(1) The term "Base Year" shall mean the first Tax Year for which a Full Assessment of the completed project is in effect for the entire Tax Year.

(2) The term "Base Year Taxes" means the Real Estate Taxes paid for the Base Year. If an Improvement (other than an Improvement which results in a change of Base Year) or a Change in Ownership occurring during the Base Year is not fully reflected in Real Estate Taxes for the entire Base Year, Base Year Taxes shall be adjusted as follows: Base Year Taxes shall be increased by the amount of additional Real Estate Taxes which would have been paid for the Base Year if the Improvement or Change in Ownership had been fully reflected in the Real Estate Taxes for the entire Base Year.

(3) The term "Change in Ownership" has the same definition as in California Revenue and Taxation Code, Part 0.5, Chapter 2, as amended or replaced from time to time.

(4) The term "Current Year Taxes" means Real Estate Taxes paid for each Tax Year following the Base Year, excluding increases in Real Estate Taxes (whether the increases result from increased rate and/or valuation) attributable to any Improvement or Change in Ownership which occurs or is completed after the Base Year.

(5) The term "Full Assessment" means that the taxing jurisdiction has considered all contemplated Improvements to the assessed property in the valuation of the same. Partial assessments for New Construction will not be used for establishing the Base Year.

(6) The term "Improvement" means any addition, alteration or improvement to real property, excluding however construction which (i) is performed by or at the request of the Government, (ii) is for the sole benefit of the Government, and (iii) is not required to make the property ready for occupancy by the Government in accordance with the terms of the lease or otherwise required by the lease.

(7) The term "New Construction" has the same definition as in California Revenue and Taxation Code Section 70, as amended or replaced from time to time, which includes, without limitation, major rehabilitation and change in use.

(8) The term "Real Estate Taxes" means only ad valorem taxes which are assessed against the building and/or the land upon which the building is located, without regard to benefit to the property, for the purpose of funding general Government services. "Real Estate Taxes" shall not include, without limitation, penalties for nonpayment or delay in payment, special assessments, business improvement district assessments, or any other present or future taxes or Governmental charges that are imposed upon Lessor or assessed against the Building and/or the land upon which the building is located.

(9) The term "Tax Year" means the fiscal year used by the state of California for real estate taxes: July 1 through June 30.

- (b) The Lessor shall furnish the Contracting Officer with copies of all notices which may affect the valuation of said land and buildings for Real Estate Taxes thereon, as well as all notices of a tax refund, deduction or credit, all tax bills and all paid tax receipts, or where tax receipts are not given, other similar evidence of payment acceptable to the Contracting Officer (hereinafter, evidence of payment), and a proper invoice (as described in the Prompt Payment clause of this lease, GSAR 552.232-71) of the tax adjustment including the calculation thereof, for each Tax Year. Lessor warrants the

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accuracy and completeness of any invoices submitted. Notices which may affect valuation and notices of a tax refund, deduction or credit are due within ten (10) business days of receipt. All other documentation shall be submitted by June 15 of each Tax Year. Failure to submit the proper invoice and evidence of payment within such time frame shall be a waiver of the right to receive payment resulting from an increased tax adjustment under this clause.

(c) The Government shall make a single annual lump sum payment to the Lessor for its share of any increase in Current Year Taxes during the lease term over Base Year Taxes, or receive a rental credit or lump sum payment for its share of any decreases in Current Year Taxes during the lease term below the Base Year Taxes. The amount of lump sum payment or rental credit shall be based upon evidence of valuation and payment submitted by the Lessor to the Contracting Officer in accordance with paragraph (b).

(1) In the event of an increase in Current Year Taxes over Base Year Taxes, the Lessor shall submit a proper invoice of the tax adjustment including the calculation thereof together with all tax bills and evidence of payment to the Contracting Officer. The Government shall be responsible for payment of any tax increase over the Base Year Taxes only if the proper invoice and evidence of payment is submitted by the Lessor on or before June 15 of the current year. The due date for making payment shall be the thirtieth (30th) calendar day after receipt of evidence of payment and all other required documentation by the Contracting Officer or the end of the Tax Year, whichever is later. No increase will be paid, due, or owing unless all evidence of valuation and payment have been previously submitted to the Contracting Officer.

(2) In the event of a decrease in Current Year Taxes from Base Year Taxes, or in the event of any refund or tax deduction, the Lessor shall notify the Contracting Officer in accordance with paragraph (b) of this clause. The Government shall be entitled to and shall receive a credit for the prorata reduction in Real Estate Taxes, regardless of whether the Government has made a tax adjustment payment for that Tax Year. The Government's share of the credit will be determined in accordance with paragraph (d) of this clause and shall be taken as a deduction from the rent. Any credit due the Government after the expiration or earlier termination of the Lease (including but not limited to credits resulting from a decrease in Real Estate Taxes pursuant to a tax credit due the Lessor; a reduction in the tax assessment; or a tax appeal proceeding for a Tax Year of the Lease, or portion thereof) shall be made by a lump sum payment to the Government or as a rental credit to any succeeding lease as determined by the Contracting Officer. Lessor shall remit to the Government any lump sum payment resulting from a tax refund within fifteen (15) calendar days after payment by the taxing authority to Lessor or Lessor's designee. Lessor shall remit any other lump sum payment to Government by June 15 of the Tax Year during which the lease year terminates. If the credit due to the Government is not paid by the due date, interest shall accrue on the late payment at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. The interest penalty shall accrue daily on the amount of the credit and be compounded in thirty (30) day increments inclusive from the first day after the due date through the payment date. The Government shall have the right to pursue the outstanding balance of any tax credit using all such collection methods as are available to the United States to collect debts. Such collection rights shall survive the expiration of this lease.

(d) The Government shall pay its share of tax increases or receive its share of any tax decrease based on the ratio of the rentable square feet occupied by the Government to the total rentable square feet in the building or complex ("percentage of occupancy"). This percentage shall be subject to adjustment to take into account additions or reductions of the amount of space as may be contemplated in this lease or amendments hereto. If the lease terminates before the end of a Tax Year, payment for the tax increase due as a result of this Tax Adjustment clause for the Tax Year will be prorated based on the number of days the Government occupied the space.

(e) The Government may direct the Lessor upon reasonable notice to initiate a tax appeal or the Government may decide to contest the tax assessment on behalf of the Government and the Lessor or for the Government alone. The Lessor shall furnish to the Government information necessary for appeal of the tax assessment in accordance with the filing requirements of the taxing authority. If the Government decides to contest the tax assessment on its own behalf or on behalf of the Government and the Lessor, the Lessor shall cooperate and use all reasonable efforts including but not limited to affirming the accuracy of the documents, executing documents required for any legal proceeding and taking such other actions as may be required. If the Lessor initiates an appeal on behalf of the Government, the Lessor shall be entitled to deduct the reasonable costs of the appeal from any resulting savings before allocation of the savings in accordance with paragraph (d) of this clause.

7. DELIVERY AND CONDITION (552.270-27 - AUG 1992)

(a) Unless the Government elects to have the space occupied in increments, the space must be delivered ready for occupancy as a complete unit. The Government reserves the right to determine when the space is substantially complete.

(b) If the premises do not in every respect comply with the provisions of this lease the Contracting Officer may, in accordance with the Failure in Performance clause of this lease, elect to reduce the rent payments.

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8. DEFAULT IN DELIVERY - TIME EXTENSIONS (552.270-28 - JUNE 1994)

(a) With respect to Lessor's obligation to deliver the premises substantially complete by the delivery date (as such date may be modified pursuant to this lease), time is of the essence. If the Lessor fails to prosecute the work with the diligence that will insure its substantial completion by the delivery date or fails to substantially complete the work by such date, the Government may by notice to the Lessor terminate this lease, which termination shall be effective when received by Lessor. The Lessor and the Lessor's sureties, if any, shall be jointly and severally liable for any damages to the Government resulting from such termination, as provided in this clause. The Government shall be entitled to the following damages:

- (1) The Government's aggregate rent and estimated real estate tax and operating cost adjustments for the firm term and all option terms of its replacement lease or leases, in excess of the aggregate rent and estimated real estate tax and operating cost adjustments for the term; provided, if the Government procures replacement premises for a term (including all option terms) in excess of the term, the Lessor shall not be liable for excess Government rent or adjustments during such excess part of such term;
- (2) All administrative and other costs borne by the Government in procuring a replacement lease or leases;
- (3) Such other, additional relief as may be provided for in this lease, at law or in equity.
- (4) Damages to which the Government may be entitled under this clause shall be due and payable thirty (30) days next following the date Lessor receives notice from the Contracting Officer specifying such damages.

(b) Delivery by Lessor of less than the minimum occupiable square footage required by this lease shall in no event be construed as substantial completion, except as permitted by the Contracting Officer.

(c) Notwithstanding paragraph (a) of this clause, this lease shall not be terminated under this clause nor the Lessor charged with damages under this clause, if (1) the delay in substantially completing the work arises from excusable delays and (2) the Lessor within 10 days from the beginning of any such delay (unless extended in writing by the Contracting Officer) provides notice to the Contracting Officer of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If the facts warrant such action, the delivery date shall be extended, by the Contracting Officer, to the extent of such delay at no additional costs to the Government. A time extension is the sole remedy of the Lessor.

9. EFFECT OF ACCEPTANCE AND OCCUPANCY (552.270-32 - AUG 1992)

Neither the Government's acceptance of the premises for occupancy, nor the Government's occupancy thereof, shall be construed as a waiver of any requirement of or right of the Government under this Lease, or as otherwise prejudicing the Government with respect to any such requirement or right.

10. FAILURE IN PERFORMANCE (552.270-17 - AUG 1992)

The covenant to pay rent and the covenant to provide any service, utility, maintenance, or repair required under this lease are interdependent. In the event of any failure by the Lessor to provide any service, utility, maintenance, repair or replacement required under this lease the Government may, by contract or otherwise, perform the requirement and deduct from any payment or payments under this lease, then or thereafter due, the resulting cost to the Government, including all administrative costs. If the Government elects to perform any such requirement, the Government and each of its contractors shall be entitled to access to any and all areas of the building, access to which is necessary to perform any such requirement, and the Lessor shall afford and facilitate such access. Alternatively, the Government may deduct from any payments under this lease, then or thereafter due, an amount which reflects the reduced value of the contract requirement not performed. No deduction from rent pursuant to this clause shall constitute a default by the Government under this lease. These remedies are not exclusive and are in addition to any other remedies which may be available under this lease or at law.

11. DEFAULT BY LESSOR DURING THE TERM (552.270-33-deviation-)

(a) Each of the following shall constitute a default by Lessor under this lease:

- (1) Failure to maintain, repair, operate or service the premises as and when specified in this lease, or failure to meet any other requirement of this lease as and when required provided any such failure shall remain uncured for a period of thirty (30) days next following Lessor's receipt of notice thereof from the Contracting Officer or an authorized representative.
- (2) Repeated and unexcused failure by Lessor to comply with one or more requirements of this lease shall constitute a default notwithstanding that one or all such failures shall have been timely cured pursuant to this clause.

(b) If a default occurs, the Government may, by notice to Lessor, terminate this lease for default and if so terminated, the Government shall be entitled to the damages specified in the Default in Delivery-Time Extensions clause.

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12. FIRE AND CASUALTY DAMAGE (552.270-13 – AUG 1992)

If the entire premises are destroyed by fire or other casualty, this lease will immediately terminate. In case of partial destruction or damage, so as to render the premises untenable, as determined by the Government, the Government may terminate the lease by giving written notice to the Lessor within 15 calendar days of the fire or other casualty; if so terminated, no rent will accrue to the Lessor after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage. Nothing in this lease shall be construed as relieving Lessor from liability for damage to or destruction of property of the United States of America caused by the willful or negligent act or omission of Lessor.

13. COMPLIANCE WITH APPLICABLE LAW (552.270-15-AUG 1992)

Lessor shall comply with all Federal, state and local laws applicable to the Lessor as owner or lessor, or both, of the building or premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. The Government will comply with all Federal state and local laws applicable to and enforceable against it as a tenant under this lease; provided that nothing in this lease shall be construed as a waiver of any sovereign immunity of the Government. This lease shall be governed by Federal law.

14. ALTERATIONS (552.270-19-JUNE 1985)

The Government shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. If the lease contemplates that the Government is the sole occupant of the building, for purposes of this clause, the leased premises include the land on which the building is sited and the building itself. Otherwise, the Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the leased space.

15. ALTERATIONS \$100,000 OR LESS (JAN 1997)

- (a) Where unit prices for alterations are not available, the Lessor may be requested to provide a price proposal for the alterations. Orders will be placed by issuance of a GSA Form 276, Supplemental Lease Agreement, a GSA Form 300, Order for Supplies or Services, or a tenant agency approved form. The clauses entitled "GSAR 552.232-71 Prompt Payment" and "GSAR 552.232-72 Invoice Requirements (Variation)" apply to orders for alterations. All orders are subject to the terms and conditions of this lease.
- (b) Orders may be placed by the Contracting Officer, the GSA buildings manager or tenant agency officials when specifically authorized to do so by the Contracting Officer. The Contracting Officer will provide the Lessor with a list of agency officials authorized to place orders and will specify any limitations on the authority delegated to tenant agency officials. The tenant agency officials are not authorized to deal with the Lessor on any other matters.

Payments for alterations ordered by tenant agencies will be made directly by the agency placing the order.

INSPECTION - RIGHT OF ENTRY (552.270-16 — Deviation —)

(a) At any time and from time to time, the agents, employees and contractors of the Government may, upon reasonable prior notice to Lessor, enter upon the premises, and all other areas of the building access to which is necessary to accomplish the purposes of entry, to determine the potential or actual compliance by the Lessor with the requirements of this lease, which purposes shall include, but not be limited to: (1) inspecting, sampling and analyzing of suspected asbestos-containing materials and air monitoring for asbestos fibers; (2) inspecting the heating, ventilation and air conditioning system, maintenance records, and mechanical rooms for the offered premises or the premises; (3) inspecting for any leaks, spills, or other potentially hazardous conditions which may involve tenant exposure to hazardous or toxic substances; and (4) inspecting for any current or past hazardous waste contamination, to ensure that all necessary remediation has been completed in accordance with Federal, State and local law.

(b) Nothing in this clause shall be construed to create a Government duty to inspect for toxic materials or to impose a higher standard of care on the Government than on other lessees. The purpose of this clause is to promote the ease with which the Government may inspect the building. Nothing in this clause shall act to relieve the Lessor of any duty to inspect or liability which might arise as a result of Lessor's failure to inspect for or correct a hazardous condition.

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16. CHANGES (552.270-21 - JUL 1995)

(a) The Contracting Officer may at any time, by written order, make changes within the general scope of this lease in any one or more of the following:

- (1) Specifications (including drawings and designs);
- (2) Work or services;
- (3) Facilities or space layout; or
- (4) Amount of space (with the consent of the lessor).

(b) If any such change causes an increase or decrease in Lessor's cost of or the time required for performance under this lease, whether or not changed by the order, the Contracting Officer shall modify this lease to provide for one or more of the following:

- (1) A modification of the delivery date;
- (2) An equitable adjustment in the rental rate;
- (3) A lump sum equitable adjustment; or
- (4) An equitable adjustment of the annual operating costs per occupiable square foot specified in this lease.

(c) The Lessor shall assert its right to an adjustment under this clause within 30 days from the date of receipt of the change order and shall submit a proposal for adjustment. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the lessor from proceeding with the change as directed.

(d) Absent such written change order, the Government shall not be liable to Lessor under this clause.

17. PROPOSALS FOR ADJUSTMENT (552.270-20 - APR 1996)

(a) The Contracting Officer may, from time to time during the term of this lease, require changes to be made in the work or services to be performed and in the terms or conditions of this lease. Such changes will be required under the Changes clause.

(b) If the Contracting Officer makes a change within the general scope of the lease, the Lessor shall submit, in a timely manner, an itemized cost proposal for the work to be accomplished or services to be performed when the cost exceeds \$25,000. The proposal, including all subcontractor work, will contain at least the following details--

- (1) Material quantities and unit costs;
- (2) Labor costs (identified with specific item or material to be placed or operation to be performed);
- (3) Equipment costs;
- (4) Worker's compensation and public liability insurance;
- (5) Overhead;
- (6) Profit; and
- (7) Employment taxes under FICA and FUTA.

(c) The following Federal Acquisition Regulation (FAR) provisions also apply to all proposals exceeding the threshold for submission of cost or pricing data at FAR 15.804-2(a)(1)--

- (1) The Lessor shall provide cost or pricing data including subcontractor cost or pricing data (48 CFR 15.804-2);
- (2) The Lessor's representative, all contractors, and subcontractors whose portion of the work exceeds the threshold for submission of cost or pricing data must sign and return the "Certificate of Current Cost or Pricing Data" (48 CFR 15.804-4); and
- (3) The agreement for "Price Reduction for Defective Cost or Pricing Data" must be signed and returned (48 CFR 15.804-8).

(d) Lessor shall also refer to 48 CFR Part 31, Contract Cost Principles, for information on which costs are allowable, reasonable, and allocable in Government work.

18. STATEMENT OF LEASE (552.270-35 - AUG 1992)

(a) The Contracting Officer will, within thirty (30) days next following the Contracting Officer's receipt of a joint written request from Lessor and a prospective lender or purchaser of the building, execute and deliver to Lessor a letter stating

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that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1) the lease is in full force and effect; (2) the date to which the rent and other charges have been paid in advance, if any; and (3) whether any notice of default has been issued.

(b) Letters issued pursuant to this clause are subject to the following conditions:

- (1) That they are based solely upon a reasonably diligent review of the Contracting Officer's lease file as of the date of issuance;
- (2) That the Government shall not be held liable because of any defect in or condition of the premises or building;
- (3) That the Contracting Officer does not warrant or represent that the premises or building comply with applicable Federal, State and local law; and
- (4) That the Lessor, and each prospective lender and purchaser are deemed to have constructive notice of such facts as would be ascertainable by reasonable prepurchase and precommitment inspection of the Premises and Building and by inquiry to appropriate Federal, State and local Government officials.

19. SUBORDINATION, NONDISTURBANCE AND ATTORNMENT (552.270-34 - AUG 1992)

(a) Lessor warrants that it holds such title to or other interest in the premises and other property as is necessary to the Government's access to the premises and full use and enjoyment thereof in accordance with the provisions of this lease. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease. Government agrees, however, within twenty (20) business days next following the Contracting Officer's receipt of a written demand, to execute such instruments as Lessor may reasonably request to evidence further the subordination of this lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this lease.

(b) No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this lease so long as the Government is not in default under this lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this lease becomes subordinate, or in a separate nondisturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Contracting Officer promptly upon demand.

(c) In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the Contracting Officer and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.

(d) None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.


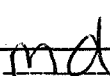
20. SUBLETTING AND ASSIGNMENT (552.270-11 - AUG 1992)

The Government may sublet any part of the premises but shall not be relieved from any obligations under this lease by reason of any such subletting. The Government may at any time assign this lease, and be relieved from all obligations to Lessor under this lease excepting only unpaid rent and other liabilities, if any, that have accrued to the date of said assignment. Any assignment shall be subject to prior written consent of Lessor, which shall not be unreasonably withheld.

21. SUBSTITUTION OF TENANT AGENCY (552.270-36 - AUG 1992)

The Government may, at any time and from time to time, substitute any Government agency or agencies for the Government agency or agencies, if any, named in the lease.

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22. NO WAIVER (552.270-37 - AUG 1992)

No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

23. INTEGRATED AGREEMENT (552.270-38 - AUG 1992)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

24. MUTUALITY OF OBLIGATION (552.270-39 - AUG 1992)

The obligations and covenants of the Lessor, and the Government's obligation to pay rent and other Government obligations and covenants, arising under or related to this Lease, are interdependent. The Government may, upon issuance of and delivery to Lessor of a final decision asserting a claim against Lessor, set off such claim, in whole or in part, as against any payment or payments then or thereafter due the Lessor under this lease. No setoff pursuant to this clause shall constitute a breach by the Government of this lease.

25. SUCCESSORS BOUND (552.270-18 - AUG 1992)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.

26. Attachments

The following items are attached and made a part of this Lease as if set forth in full herein:

- (a) EXHIBIT A — Services, Utilities and Maintenance
- (b) EXHIBIT B — Construction and Delivery
- (c) EXHIBIT C — Architecture, Finishes, Systems and Accessibility
- (d) EXHIBIT D — Health and Safety
- (e) EXHIBIT E — Government Clauses
- (f) EXHIBIT F — Representations and Certifications (GSA Form 3518)
- (g) EXHIBIT G — Floor Plan of the Premises

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR:

BY: _____

Its: _____

BY: _____

Its: _____

GOVERNMENT: UNITED STATES OF AMERICA,
acting by and through the Administrator of General Services

BY: _____

CONTRACTING OFFICER, GSA, PBS,

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EXHIBIT A

Services, Utilities and Maintenance

1. SERVICES, UTILITIES, MAINTENANCE: GENERAL

Services, outdoor utilities, and maintenance shall be provided by the Lessor as part of the rental consideration. The Lessor must have a building maintenance engineer on site during the Occupant's normal hours to promptly correct deficiencies.

2. NORMAL HOURS

Services, utilities, and maintenance will be provided daily, extending 7:00 AM to 6:00 PM.

3. OVERTIME USAGE (JUN 1993)

The Government shall have access to the leased space at all times without additional payment, including the use, during other than normal hours, of necessary services and utilities such as toilets, lights, and electric power.

4. UTILITIES

The Lessor shall ensure that utilities necessary for operation within the building are provided. Utility meters shall be furnished and installed in each supply source. Utilities for the exterior building, grounds and parking areas shall be provided by the Lessor and shall be separate from the Government's meters.

5. UTILITIES: SEPARATE FROM RENTAL (JAN 1997)

Utilities within the building are excluded from the rental consideration. The Lessor must obtain a statement from a registered professional engineer stating that all heating, ventilation, air conditioning, plumbing, and other energy intensive building systems can operate under the control conditions stated in this SFO. The statement must also identify all building systems which do not conform to the system performance values, including the "recommended" or "suggested" values of ASHRAE Standard 90.1, Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings, or more restrictive local/state codes.

The Lessor shall provide separate meters for utilities to be paid for by the Government. The Lessor shall furnish in writing to the Contracting Officer, prior to occupancy by the Government, a record of the meter numbers and verification that the meters measure Government usage only. Proration is not permissible. In addition, an automatic control system shall be provided to assure compliance with heating and air conditioning requirements (see "Mechanical, Electrical, Plumbing" section of this solicitation).

6. MAINTENANCE OF BUILDING AND PREMISES - RIGHT OF ENTRY (552.270-12 - MODIFICATION —)

- (a) Except in case of damage arising out of the willful act or negligence of a Government employee, Lessor shall maintain the premises, including the building and all equipment, fixtures, and appurtenances furnished by the lessor under this lease, in good repair and condition so that they are suitable in appearance and capable of supplying such heat, air conditioning, light, ventilation, access and other things to the premises, without reasonably preventable or recurring disruption, as is required for the Government's access to, occupancy, possession, use and enjoyment of the premises as provided in this lease. For the purpose of so maintaining the premises, the Lessor may at reasonable times enter the premises with the approval of the authorized Government representative in charge.
- (b) Such maintenance and repairs include site and private access roads. All equipment and systems shall be maintained to provide reliable, energy efficient service without unusual interruption, disturbing noises, exposure to fire or safety hazards, uncomfortable drafts, excessive air velocities, or unusual emissions of dirt. The Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Maintenance, testing, and inspection of appropriate equipment and systems must be done as per

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manufactures instructions, in accordance with applicable codes, and inspection certificates must be displayed as appropriate. Copies of all records in this regard shall be forwarded to the Field Office Manager or a designated representative.

- (c) Without any additional charge, the Government reserves the right to require the Lessor or his representative to test once a year, with proper notice, such systems as fire alarm, sprinkler, emergency generator, etc. to ensure proper operation. These tests shall be witnessed by a representative of the Contracting Officer.

7. SECURITY

The Lessor shall provide security infrastructure (empty conduit, power backing plates, as detailed in the PPD, etc.) and coordinate hardware installation with the Government's security contractor as outlined in the Government's Project Program Requirements. With the exception of the security infrastructure as defined in the design documents, operation and maintenance of the security system shall be the Tenant's responsibility.

8. SECURITY: ADDITIONAL REQUIREMENTS

- (a) The Government reserves the right to require the Lessor to submit completed fingerprint charts and personal history statements for each employee of the Lessor as well as employees of the Lessor's contractor's or subcontractors who will provide building operating services of a continuing nature for the property in which the leased space is located. The Government may also require this information for employees of the Lessor, his contractors, or subcontractors who will be engaged to perform alterations or emergency repairs for the property.
- (b) If required, the Contracting Officer will furnish the Lessor with form FD-258, "Fingerprint Chart" and Form 176, "Statement of Personal History" to be completed for each employee and returned by the Lessor to the Contracting Officer or his designated representative within 10 working days from the date of the written request to do so. Based on the information furnished, the Government will conduct security checks of the employees. The Contracting Officer will advise the Lessor in writing if an employee is found to be unsuitable or unfit for his assigned duties. Effective immediately, such an employee cannot work or be assigned to work on the property in which the leased space is located. The Lessor will be required to provide the same data within 10 working days from the addition of new employee(s) to the work force. In the event the Lessor's contractor/subcontractor is subsequently replaced, the new contractor/subcontractor is not required to submit another set of these forms for employees who were cleared through this process while employed by the former contractor/subcontractor. The Contracting Officer may require the Lessor to submit Form FD-258 and Form 176 for every employee covered by this clause on a 3-year basis.

9. JANITORIAL SERVICES (JAN 1997)

- (a) Cleaning is to be performed during the Occupant's normal business hours in accordance with Attachment 2, "Cleaning Work and Quality Requirements", of this Lease. Lessor shall coordinate with tenant to establish a time which will minimize disruption to the Tenant
- (b) The Lessor shall maintain the leased premises, including outside areas in a clean condition and shall provide supplies and equipment. Performance will be based on the Contracting Officer's evaluation of results, not the frequency or method of performance. Where these requirements contradict the manufacturer's recommendations, the manufacturer's recommendations shall apply.

10. SCHEDULE OF PERIODIC SERVICES

Within 60 days after occupancy by the Government, the Lessor shall provide the Contracting Officer with a detailed written schedule of all periodic services and maintenance to be performed other than daily, weekly or monthly. Services including repainting in accordance with Attachment # 2 of this lease.

11. MAINTENANCE AND TESTING OF SYSTEMS

The Lessor is responsible for the total maintenance and repair of the leased premises, including but not limited to maintenance and repairs of the site and private access roads. All equipment and systems shall be maintained to provide reliable, energy efficient service without unusual interruption, disturbing noises, exposure to fire or safety hazards, uncomfortable drafts, excessive air velocities, or unusual emissions of dirt. The Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Maintenance, testing, and inspection of appropriate equipment and systems must be done in accordance with Manufacturers instructions applicable codes, and inspection certificates must be displayed as appropriate. Copies of all records in this regard shall be forwarded to the GSA Field Office Manager or a designated representative.

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12. LANDSCAPE MAINTENANCE

Performance will be based on the Contracting Officer's evaluation of results and not the frequency or the method of performance. Landscape maintenance is to be performed during the growing season on a weekly cycle and will consist of watering, mowing, and policing area to keep it free of debris. Pruning and fertilization are to be done on an as needed basis. In addition, dead or dying plants are to be replaced.

END EXHIBIT

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EXHIBIT B

Construction and Delivery

1. CAPABILITY TO PERFORM

Within 60 days after award, Lessor shall provide to the Contracting Officer evidence of:

- (a) A firm commitment of funds in an amount sufficient to perform the work.
- (b) Award of a construction contract with a firm completion date.
- (c) Ownership of Project Site.

2. ADDRESS QUESTIONS TO CONTRACTING OFFICER

All questions pertaining to this lease shall be referred to the Contracting Officer of General Services Administration. The Government Occupant is not authorized to administer this lease and the General Services Administration assumes no responsibility for any costs incurred by the lessor except as provided by the term of this lease or authorized in writing by the Contracting Officer or a designee.

3. CASH PAYMENT BY GOVERNMENT

The Government reserves the right to make cash payments for a portion of the work performed by the Lessor. Prior to occupancy, the Government, at its sole discretion, may choose to pay Lump Sum for any or all of the tenant improvements within the occupiable area. If the Government elects to pay a Lump Sum payment for the tenant improvements, the payment by the Government will result in a decrease in the rent.

4. CREDIT CARD PAYMENT FOR LEASE ALTERATIONS

Payments for alterations can be made through use of the Government Credit Card. This credit card is identified by the International Merchant Authorization Card (IMPAC). IMPAC is comparable to a VISA or other commercial credit card. To facilitate these payments, the lessor shall be equipped to accept credit card payments.

5. PARTNERING

As part of the rental consideration, the Lessor shall, at his own expense, sponsor a partnering program with the Contracting Officer, Contracting Officer's Representatives, Lessor's Project Team, tenant agency project team, and others as selected by the Contracting Officer. The Lessor shall arrange for professional facilitators and meeting space at a location acceptable to the Contracting Officer. The partnering session date shall be established within 30 days following lease award. The Lessor is advised that the Government's Team Members must be given a minimum of three weeks notice to allow sufficient time to schedule attendance.

6. WORKING CONSTRUCTION DOCUMENTS

At the Lessor's sole expense, the Lessor shall develop construction documents for permit application and construction. The Lessor's construction documents shall describe construction requirements for a complete facility that:

- is substantially similar in design, appearance, and construction detailing to that illustrated by the Government's Project Program Documents (PPD).
- complies with the specific design criteria and requirements set forth by the PPD.
- where more restrictive than the PPD, complies with the following codes and requirements:
 1. The current (as of the date of this solicitation) edition of the ICBO Uniform Building Code and all associated mechanical, plumbing, and electrical codes as adopted by the local government authority having jurisdiction over construction on the site.
 2. The current (as of the date of this solicitation) edition of the National Fire Protection Association Life Safety Code (NFPA 101).

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3. Executive Order 12759, Federal Energy Management, signed April 17, 19991, Particular Section 5, which requires procurement of energy conserving products that are most life-cycle-cost effective.
4. Energy Policy and Conservation Act (Public Law 94-163, 89 Stat. 87, 42 U.S.C. 6201, et seq) as amended by the Energy Policy Act of 1992 (Public Law 102-486, 106 Stat. 2776) and Section 301 of Title 3.

In the preparation of construction documents, the Lessor shall comply with the requirements set forth by Division 1 of the Government's PPD specifications.

An architect or professional engineer registered to practice in the State of California shall seal each final construction drawing and volume of specifications.

Upon lease award, the Government will provide to the Lessor a set of Project Program Documents (PPD) in the form of Word Perfect 6 and AutoCAD version 13 computer files on a CD-ROM disc. Although the Government's PPD is similar in format and appearance to detailed construction documents in many respects, the Government does not warrant that the PPD can be utilized by the Lessor for this purpose without extensive modifications, corrections, and additional design effort.

7. DISTRIBUTION OF WORKING CONSTRUCTION DOCUMENTS

The Lessor shall distribute full sets of the construction documents (blue prints and specifications) in accordance with the PPD.

8. CONSTRUCTION SCHEDULE

The Government retains the right to review, and request modifications (if necessary) to the Lessor's construction documents prior to the Lessor's commencement of construction. The Government will require documents for review at 50 and 100 percent for site adapt and 100 percent for complete building.. If deviations from the Contract Documents provided to the Lessor are found during the Government review, Lessor is required to revise Construction Drawings based on Government review comments to be in conformance with contract document at no additional cost to the Government. Review and revisions of the documents due to the Lessor's deviation from the contract are not subject to excusable delays are compensation. Within 15 working days after acceptance of the construction documents, the Government will issue Notice to Proceed to the Lessor, and the Lessor shall initiate action to obtain all necessary permits and commence construction of the space. Notwithstanding the Government's review of the construction documents, the Lessor is solely responsible and liable for the technical accuracy of the construction documents in meeting all requirements and provisions of this lease and local jurisdictions. The Lessor must adhere to the requirements set forth by Section 01015 of the Government's PPD.

9. PROGRESS REPORTS

After start of construction, the Lessor shall submit to the Contracting Officer, written progress reports in accordance with requirements of Paragraph 3.7, "Periodic Progress Meetings", Section 01310, PPD.

10. CONSTRUCTION INSPECTIONS

The U.S. Army Corps of Engineers will be the on-site representative performing quality assurance inspections, periodic reviews, and testing during the construction. Subsequent to award, a memorandum designating the Corps as a Contracting Officer Technical Representative (COTR) will be executed outlining the responsibilities of the Corps. The Lessor will remain completely responsible for designing, constructing, operating, and maintaining the building in full accordance with the requirements of this solicitation.

11. LIQUIDATED DAMAGES, GSAR 552.270-22 (AUG 1992)

In case of failure on the part of the Lessor to complete the work within the time fixed in the lease contract or letter of award, the Lessor shall pay the Government as fixed and agreed liquidated damages, pursuant to this clause, the sum of \$1,820.00 for each and every calendar day that the delivery is delayed beyond the date specified for delivery of all the space ready for occupancy by the Government. This remedy is not exclusive and is in addition to any other remedies which may be available under this lease or at law.

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12. LUMP SUM PRICES

The Government shall make a lump sum payment after completion of the work and acceptance by the Government. Payment will be due only for items which are both: (a) listed in this paragraph, and (b) shown on the Government's layout or requested in writing by the contracting officer. Title to items for which the Government makes a lump sum payment shall vest in the Government. These items can be removed by the Government at any time. Lessor waives any restoration in connection with these items. Unless the Government has removed the item from the premises, Lessor shall remain responsible for maintenance, repair and replacement of all items provided by the Lessor under this lease. If, after the lease term and any extended, renewal or succeeding lease term, the Government elects to abandon any items in place, title shall pass to Lessor.

13. RELOCATION ASSISTANCE ACT

If an improved site is to be used to meet the requirements of this lease and new construction will result in the displacement of individuals or businesses, Lessor shall be responsible for payment of relocation costs for displaced persons in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and 49 CFR Part 24.

14. CODE VIOLATIONS

- (a) The Premises and Building must have a current occupancy permit issued by the local jurisdiction. If the local jurisdiction does not issue occupancy permits, Lessor should consult the contracting officer to determine if other documentation may be needed.
- (b) Equipment, services, or utilities furnished and activities of other occupants shall be free of safety, health, and fire hazards. When hazards are detected, they must be promptly corrected at the Lessor's expense.

15. MISCELLANEOUS DESIGN AND CONSTRUCTION CLAUSES

- (a) Design after award shall be in accordance with the specific requirements set forth by the solicitation, by the Project Program Documents (PPD), and this lease. The resulting design by the Lessor shall be a direct extension of the PPD, completed and adapted to the specific site where the building will be located. The Lessor's design shall be an evolutionary advancement of the PPD, retaining all the functional, physical, quality, and aesthetic characteristics of the PPD. The Contracting Officer shall have the right to reject any aspect of the Lessor's design which varies from the PPD or which would adversely affect the Government's use and occupancy of the space or the Government's other interests in the building, as set forth in this lease.
- (a) As prescribed in the PPD, the Lessor shall submit to the Contracting Officer required sets of blue-line prints of tentative drawings as well as copies of tentative calculations and specifications which shall consist of not less than the following intermediate level design documents: floor plans, elevations, typical wall section, site plan, basic structural system, general schematic plans of the mechanical system and locations of major equipment, typical lighting layouts, minimum electrical riser diagram, and calculations necessary to verify information shown on the drawings regarding air conditioning and heating load and specifications for the heating and air conditioning equipment to be installed. Plans submitted shall be for the entire building to ensure that all aspects of the building design are compatible with the Government's use, occupancy and protection of its space. All drawings shall be dimensioned and plans shall show net usable and gross area calculations.
- (b) In accordance with the PPD, the successful Lessor shall submit working drawings and final specifications analyses and calculations. These documents shall include, but not be limited to the following:
 - (1) Complete site data including existing grades and finish or design elevations, method of draining site, locations of storm sewers, sanitary sewers, water mains, utility poles, light poles, curbs, retaining walls and other pertinent site data. Include sizes and inverted elevations of all sewers.
 - (2) Large scale cross sections through exterior walls including lintels, sills, copings, foundations, entrance features, and other pertinent details necessary to show construction. Include details of structural anchors and connections.
 - (3) Complete structural framing plan, including details for anchoring joists, beams, bridging, etc. Allowable design stress and the ASTM designation for structural and reinforcing steel shall be clearly indicated on the design drawings under "Structural Notes". The allowable live load for each floor, and for each section of a floor which deviates from the standard, shall be clearly indicated directly on the framing plan.
 - (4) Heating and cooling load calculations.
 - (5) HVAC plans and equipment specifications.
 - (6) Electrical plans and equipment specifications.
 - (7) Plumbing plans and equipment specifications.
 - (8) Hardware schedules and specifications.
 - (9) Finish schedules and specifications.

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- (10) Special equipment specifications.
- (11) Final dimensioned plans, elevations, building section, and architectural detail drawings.
- (12) Building sprinkler system hydraulic calculations and associated drawings, including water flow test.
- (13) Fire alarm plans and equipment specifications.
- (14) Other building code analysis and certifications.
- (15) All final design calculations not otherwise listed above.

(d) The design standards for all building components and systems can be no less stringent in performance characteristics than ASHRAE/IES Standard 90A-1980, developed by the American Society of Heating, Refrigerating and Air conditioning Engineers (ASRAE) and the Illuminating Engineering Society (IES). As prescribed in the PPD, the Lessor will be required to provide a certification from a registered professional engineer that the building has been designed in accordance with the referenced standard.

16. ACCEPTANCE OF SPACE

The Lessor shall comply with procedures specified in Section 01440, "Lessor Quality Control 10/94", Paragraph 3.8, "Completion Inspection".

17. MISCELLANEOUS LABOR CLAUSES (AUG 1994)

1. 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (MAR 1986)

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) *Payrolls and basic records.*

(1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representatives to interview employees during working hours on the job.

(e) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause.

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2. 52.222-6 DAVIS-BACON ACT (NOV 1992)

- (a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (1) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:
- (i) Except with respect to helpers, as defined in Section 22.401 of the Federal Acquisition Regulation, the work to be performed by the classification requested is not performed by a classification in the wage determination.
 - (ii) The classification is utilized in the area by the construction industry.
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
 - (iv) With respect to helpers, such a classification prevails in the area in which the work is performed.
- (2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (b)(2) and (b)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; *provided*, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor

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may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

3. 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

4. 52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)

- (a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (b) (1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.
- (2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify—
- (i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;
 - (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and
 - (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.
- (4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to

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submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

5. 52.222-9 APPRENTICES AND TRAINEES (FEB 1988)

(a) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

6. 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

7. 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (FEB 1988)

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- a) The Contractor or subcontractor shall insert in any subcontracts the clauses entitled *Davis-Bacon Act, Contract Work Hours and Safety Standards Act—Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination—Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility*, and such other clauses as the Contracting Officer may, by appropriate instructions, require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited in this paragraph.
- (b) (1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Statement and Acknowledgment Form (SF 1413) for each subcontract, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (a) of this clause have been included in the subcontract.
- (2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.
8. 52.222-12 CONTRACT TERMINATION—DEBARMENT (FEB 1988)
A breach of the contract clauses entitled *Davis-Bacon Act, Contract Work Hours and Safety Standards Act—Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility* may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.
- 9 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)
All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.
10. 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)
The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
11. 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)
- (a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

END EXHIBIT

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EXHIBIT C

Architecture, Finishes, Systems and Accessibility

1. WORK PERFORMANCE

All work in performance of this lease must be done by skilled workers or mechanics and be acceptable to the Contracting Officer.

2. BUILDING SYSTEMS (JAN 1997)

Whenever requested, the Lessor shall furnish at no cost to GSA a report by a registered professional engineer(s) showing that the building and its systems as designed and constructed will satisfy the requirements of this lease.

3. FLOOR PLANS AFTER OCCUPANCY

Within 60 days after occupancy, the Lessor must provide a full set of record drawings as specified in Section 01700 of the PPD.

4. BUILDING FINISHES

Building finishes shall be in conformance with the PPD. Ceilings shall be uniform in color and appearance throughout the lease space, with no obvious damage. Ceilings which become stained or damaged during the term of the lease shall be promptly repaired or replaced.

5. PAINTING

All surfaces designated by PPD for painting must be in accordance with the PPD. All painted surfaces, including any partitioning installed by the Government or Lessor after Government occupancy, must be repainted after working hours at Lessor expense at least every 5 years. This includes moving and return of furniture. Public areas must be painted at least every 3 years.

6. PARTITIONS: GENERAL

Partitions and dividers must be provided in conformance with the PPD.

7. FLOOR COVERING AND PERIMETERS (DEC 1991)

CARPET - REPLACEMENT:

- Carpet shall be replaced at least every 7 years during Government occupancy or any time during the lease when:
- Backing or underlayment is exposed.
- There are noticeable variations in surface color or texture.

Replacement includes moving and return of furniture.

RESILIENT FLOORING - REPLACEMENT:

- The flooring shall be replaced by the Lessor at no cost to the Government prior to or during Government occupancy when it has:
- Curls, upturned edges, or other noticeable variations in texture.

8. MECHANICAL, ELECTRICAL, PLUMBING: GENERAL

The Lessor shall provide and operate all building equipment and systems in accordance with PPD and applicable

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technical publications, manuals, and standard procedures.

9. HEATING AND AIR CONDITIONING (JUL 1994)

- (a) Temperatures +/- 2° and humidities shall be maintained regardless of outside temperatures, during the hours of operation for spaces as listed below:

Area	Summer		Winter	
	Dry Bulb (°F)	%RH	Dry Bulb (°F)	%RH
Administrative	72	50	72	30
Fingerprint Workroom	72	50	72	50
Photo Workroom	72	60	72	60
Alternate Light Rooms	72	50	72	50
Dark Room	72	50	72	50
All Other Areas	72	50	72	40

- (b) During non-working hours, equipment shall be in a night setback mode of operation. Temperatures in administrative area only shall be set at 60°F, (heating), and air conditioning need not be provided except as necessary to return space temperatures to normal for the beginning of working hours. Airflow quantities may be reduced during night setback mode; however, minimum airflow quantities must be maintained. Laboratory areas shall maintain 6.0 air changes per hour in night setback mode.
- (c) Individual room thermostat control shall be provided for spaces as shown on the Government's PPD.

10. VENTILATION (OCT 1996)

- (a) During working hours in periods of heating and cooling, ventilation shall be provided in accordance with ASHRAE Standard 62, Ventilation for Acceptable Indoor Air Quality and the requirements specified in the Government PPD. The more stringent requirements shall govern.
- (b) An automatic air economizer cycle shall be provided to all air handling equipment, where practicable.
- (c) The building shall have a fully functional building automation system (BAS) capable of control, regulation, and monitoring of all environmental conditioning equipment. The BAS shall be fully supported by a service and maintenance contract.

11. ELECTRICAL: GENERAL (JAN 1997)

The Lessor shall review the Government's PPD and shall be responsible for meeting the applicable requirements of local codes and ordinances. When codes conflict, the more stringent standard shall apply.

12. ELECTRICAL: DISTRIBUTION (JUN 1994)

Duplex floor or wall outlets shall be provided in accordance with the Government's PPD.

13. TELEPHONE: DISTRIBUTION AND EQUIPMENT (JAN 1997)

- (a) Telephone floor or wall outlets shall be provided in accordance with PPD. The Lessor shall ensure that all outlets and associated wiring used to transmit telecommunication (voice) service to the workstation will be safely concealed in floor ducts, walls, or columns. Wall outlets shall be provided with rings and pull strings to facilitate the installation of cable.
- (b) The Government reserves the right to provide its own telecommunication (voice) service in the space to be leased. The Government may contract with another party to have inside wiring and telephone equipment installed.
- (c) To facilitate the Government's installation of telephone cable, the lessor shall either (1) delay installation of ceiling tiles until after the cable has been pulled, or (2) provide labor to remove and replace ceiling tiles to accommodate the Government's cabling contractors.

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14. DATA DISTRIBUTION (JAN 1997)

- (a) Floor or wall outlets shall be provided in accordance with PPD. The Lessor shall ensure that data outlets and the associated wiring used to transmit data to workstations will be safely concealed in floor ducts, walls, columns, or below access flooring. Wall-mounted outlets shall be provided with rings and pull strings to facilitate the installation of the data cable. The Government shall at its expense be responsible for purchasing and installing said cable. When cable consists of multiple runs, the Lessor shall provide cable trays to insure that Government-provided cable does not come into contact with suspended ceilings. Cable trays shall be ladder-type, and shall form a loop around the perimeter of the Government-occupied space such that the horizontal distance between individual drops does not exceed 30 feet.
- (b) To facilitate the Government's installation of telephone cable, the lessor shall either (1) schedule installation of ceiling tiles after the cable has been pulled, or (2) provide labor to remove and replace ceiling tiles to accommodate the Government's cabling contractors.

15. ACCESSIBILITY FOR NEW CONSTRUCTION (JAN 1997)

To be considered for award, buildings to be constructed must fully meet the new construction requirements of the Americans With Disabilities Act Accessibility Guidelines (ADAAG) (36 CFR Part 36, App. A) and the Uniform Federal Accessibility Standards (UFAS) (Federal Register vol. 49, No. 153, August 7, 1984, reissued as FED. STD. 795, dated April 1, 1988, and amended by Federal Property Management Regulations Amendment D-88, 54 FR 12627, March 28, 1989) and the Government's PPD. Where standards conflict, the more stringent shall apply.

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EXHIBIT D

Health, Safety and Environment

1. OCCUPANCY PERMIT (OCT 1996)

The Lessor shall provide a valid Certificate of Occupancy for the intended use of the Government and shall maintain and operate the building in conformance with current local codes and ordinances. "Grandfather" exemptions do not apply for purposes of this Lease. If the local jurisdiction does not issue occupancy permits, Lessor should consult the Contracting Officer to determine if other documentation may be needed. Lessor shall identify the building code used by the local jurisdiction.

2. FIRE AND LIFE SAFETY (OCT 1996)

The entire building shall be protected in accordance with NFPA 13, NFPA 48, NFPA 72, NFPA 101, and any applicable state and local codes. Protection shall include, at a minimum, the level of protection indicated on the Government Project Program.

The Lessor shall be responsible for designing and installing Fire Protection Systems throughout the entire facility, such as Fire Alarm and Sprinkler System. Systems shall meet the requirements as set forth in the Project program Documents and the requirement of the local jurisdiction. The Lessor's Registered Fire Protection Engineer shall certify that the design will meet all applicable codes and requirements for the facility. The certification shall be submitted to the Contracting Officer within 40 working days after issuance of Notice To Proceed with Construction.

3. TESTING OF SAFETY SYSTEMS

The Government reserves the right to request and witness tests of safety systems on no more than an annual basis.

4. PORTABLE FIRE EXTINGUISHERS (SEP 1991)

Portable fire extinguishers shall be provided, inspected, and maintained by the Lessor in accordance with National Fire Protection Association (NFPA) Standard No. 10.

5. SPRINKLER SYSTEM (OCT 1996)

- (a) The entire building must be protected by an automatic sprinkler system. Automatic sprinkler systems shall be equipped with sprinkler heads matching the occupancy for which they are designed.

- (b) Definitions:

(1)"Automatic sprinkler system" means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire: (A) will protect human lives by discharging water over the fire area, in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and (B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto.

6. ENGINEERED SMOKE CONTROL SYSTEMS (SEP 1991)

Engineered smoke control systems, if present, shall be maintained in accordance with the manufacturer's recommendations.

7. MANUAL FIRE ALARM SYSTEMS (OCT 1996)

Manual fire alarm systems shall be provided in accordance with NFPA Standard 101 (current as of the date of this solicitation). Systems shall be maintained and tested by the Lessor in accordance with NFPA Standard 72. The fire alarm system wiring and equipment must be electrically supervised and automatically notify the local fire department (NFPA

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Standard No. 72) or approved central station. Emergency power must be provided in accordance with NFPA Standards No. 70 and 72.

8. OSHA REQUIREMENTS (OCT 1996)

The Lessor shall maintain buildings and space in a safe and healthful condition according to the Occupational Safety and Health Administration (OSHA) standards.

9. INDOOR AIR QUALITY (OCT 1996)

- (a) The Lessor shall control contaminants at the source and/or operate the space in such a manner that the GSA indicator levels for carbon monoxide (CO), carbon dioxide (CO₂), and formaldehyde (HCHO) are not exceeded. The indicator levels for office areas shall be: CO - 9 parts per million (ppm) time-weighted average (TWA - 8-hour sample); CO₂ - 1000 ppm (TWA); formaldehyde - 0.1 ppm (TWA).
- (b) The Lessor shall make a reasonable attempt to apply insecticides (except traps), paints, glues, adhesives, and heating, ventilating and air conditioning (HVAC) system cleaning compounds with highly volatile or irritating organic compounds, outside of working hours. The Lessor shall provide advance notice to the tenant before applying noxious chemicals in occupied spaces, and adequate ventilation in those spaces during working hours during and after application.
- (c) The Lessor shall, at all times, supply adequate ventilation to the leased premises with air having contaminants below OSHA or EPA action levels and permissible exposure limits, and without noxious odors or dusts. The Lessor shall conduct HVAC system balancing after all HVAC system alterations; and make a reasonable attempt to schedule major alterations outside of office hours.
- (d) The Lessor shall promptly investigate indoor air quality (IAQ) complaints and shall implement controls, including alteration of building operating procedures (e.g., adjusting air intakes, adjusting air distribution, cleaning and maintaining HVAC systems, etc.), to address such complaints.
- (e) The Government reserves the right to conduct independent IAQ assessments and detailed studies in space it occupies, as well as in space serving the Government-leased space (e.g., common use areas, mechanical rooms, HVAC systems, etc.). The Lessor shall assist the Government in its assessments and detailed studies by making available information on building operations and Lessor activities, and providing access to space for assessment and testing, if required, and implement corrective measures required by the Contracting Officer.

10. RADON MEASUREMENT AND CORRECTIVE ACTION (JUN 1994)

(This paragraph applies to leases of more than 10,000 square feet of general purpose office space or more than 20,000 square feet of warehouse space.)

- (a) Radon levels in space leased to the Government shall not equal or exceed the Environmental Protection Agency (EPA) action level for homes of 4 picocuries per liter (pCi/l).
- (b) Lessor shall, upon award of this lease, measure the premises for radon and mitigate radon levels which equal or exceed 4 picocuries per liter (pCi/l). Any portion of the space lease to the Government that is in ground contact or closest to the ground up to and including the second floor (e.g., if space is on the third floor and/or above, no measurements are required) shall be measured by the Lessor for radon and the results certified on a form to be provided by the Contracting Officer upon award (see GSA Form 3516, Solicitation Provisions). Radon detectors shall be placed throughout the required area to ensure each detector covers no more than 2,000 square feet of occupiable space. Radon must be measured:
 - (1) for a minimum of 90 days using either Alpha Track Detectors or Electret Ion Chambers, herein called the "Standard Test." The Lessor shall submit the certification within 30 days after the test is completed, but not later than 150 days after award, unless the Contracting Officer decides that there is not enough time for the Standard Test, in which case,
 - (2) the Lessor shall measure using Alpha Track Detectors for a minimum period of 2 to 4 weeks or Charcoal Canisters or Electret Ion Chambers for a period of 2 to 3 days, herein called the "Short Test," as decided by the Contracting Officer. The Lessor shall begin the Short Test not later than 1 week after award and submit the certification not later than 7 days after the completion of the measurements. Follow-up measurements using the Standard Test, shall be completed according to the time frames in (b)(1) above.
- (c) If the space leased to the Government is in a building under construction or proposed for construction, the Lessor shall perform, if possible, the Standard Test for radon before or during buildout and submit the required certification to the Contracting Officer within 30 days after the test is completed, but before Government occupancy of the space. If it

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is not possible to complete the Standard Test before, or during buildout, the Short Test shall be completed before occupancy and the radon certification submitted not later than 7 days after completion. In addition, the Standard Test shall be completed not later than 150 days after occupancy and the radon certification shall be submitted within 30 days after completion.

- (d) If measurements, as required by this paragraph, reveal radon levels at or above 4 pCi/l, the Lessor shall develop a plan of corrective action. The Lessor shall carry out the plan before occupancy by the Government. If the Lessor's measurements taken after Government occupancy reveal radon levels at or above 4 pCi/l, the Lessor shall develop and carry out a plan of corrective action according to (e) below, to include follow-up measurements using the Standard Test after the corrective action is completed. If the Lessor fails to exercise due diligence, or is otherwise unable to correct excessive radon levels, the Government, at its sole discretion, may terminate the lease.
- (e) The Government reserves the right to measure radon in the space it leases any time during the term of the lease. If radon at or above 4 pCi/l is detected, the Lessor shall promptly initiate corrective action to reduce the level to below 4 pCi/l. If radon at or above 200 pCi/l is detected, the Lessor shall restrict the use of the area and provide comparable temporary space, as agreed to by the Government, for the tenants until the corrective action is completed. Follow-up measurements using the Standard Test shall be conducted by the Lessor to assess the effectiveness of the corrective action. All corrective action, tenant relocation, and follow-up measurement shall be provided by the Lessor at no additional cost to the Government. The Lessor shall provide the Government with prior written notice of any proposed corrective action or tenant relocation.
- (f) All laboratory detector analyses shall be performed by a laboratory successfully participating in the EPA-sponsored radon measurement proficiency program. Actual radon measurements from the testing laboratory must also be submitted for each detector used in support of the certification.

11. RADON IN WATER (SEP 1991)

- (a) Two water samples constituting a sampling pair shall be taken from the same location for quality control. They shall be obtained inside the building and as near the non-public water source as is practical, in accordance with EPA's "Radon In Water Sampling Program Manual." Analysis of water samples for radon must be performed by a laboratory that uses the analytical procedures as described in EPA's "Two Test Procedures For Radon In Drinking Water."
- (b) The Lessor shall perform the necessary radon testing and submit a certification to the Contracting Officer before the Government occupies the space.
- (c) If the EPA action level is reached or exceeded, the Lessor shall institute abatement methods, such as aeration, which reduce the radon to below the EPA action level prior to occupancy by the Government, and are promptly revised when building conditions which would or do affect the program change.

12. RECYCLING

Where State and/or local law, code or ordinance require recycling programs for the Premises, Lessor shall comply with such State and/or local law, code or ordinance in accordance with the paragraph entitled "Compliance with Applicable Law." In all other cases, Lessor shall establish a recycling program in the Premises unless it is economically unfeasible to do so. Lessor agrees, upon request, to provide the Government with additional information concerning recycling programs maintained in the building and the leased space.

13. REQUIREMENT FOR RECYCLING REPRESENTATION

(Applies to leases which involve both more than 10,000 square feet of space and terms which exceed 6 months)

Representations. The apparent successful Lessor shall submit the representation in Attachment 7 to this SFO.

14. SEISMIC SAFETY FOR NEW CONSTRUCTION (JAN 1997)

- (a) The Lessor shall provide a written certification from an independent licensed structural engineer which states that the building design and construction are in compliance with the seismic standards for new construction of the current (as of the date of this solicitation) edition of the ICBO Uniform Building Code, the BOCA National Building Code, or the SBCCI Standard Building Code, using the certification form in Attachment 4 to this.
- (b) All design and engineering documents, including structural engineering calculations, must be made available for review by the Government during design development to ensure compliance with seismic safety standards.

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END EXHIBIT

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EXHIBIT E

Government Clauses

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1. PROMPT PAYMENT (552.232-71 - APR 1989)

The Government will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

(a) Payment due date.

- (1) Rental payments. Rent shall be paid monthly in arrears and will be due on the first workday of each month, and only as provided for by the lease.
 - (i) When the date for commencement of rent falls on the 15th day of the month or earlier, the initial monthly rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.
 - (ii) When the date for commencement of rent falls after the 15th day of the month, the initial monthly rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.
- (2) Other payments. The due date for making payments other than rent shall be the later of the following two events:
 - (i) The 30th day after the designated billing office has received a proper invoice from the Contractor.
 - (ii) The 30th day after Government acceptance of the work or service. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(b) Invoice and inspection requirements for payments other than rent.

- (1) The Contractor shall prepare and submit an invoice to the designated billing office after completion of the work. A proper invoice shall include the following items:
 - (i) Name and address of the Contractor.
 - (ii) Invoice date.
 - (iii) Lease number.
 - (iv) Government's order number or other authorization.
 - (v) Description, price, and quantity of work or services delivered.
 - (vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the remittance address in the lease or the order.)
 - (vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.
- (2) The Government will inspect and determine the acceptability of the work performed or services delivered within 7 days after the receipt of a proper invoice or notification of completion of the work or services unless a different period is specified at the time the order is placed. If actual acceptance occurs later, for the purpose of determining the payment due date and calculation of interest, acceptance will be deemed to occur on the last day of the 7-day inspection period. If the work or service is rejected for failure to conform to the technical requirements of the contract, the 7 days will be counted beginning with receipt of a new invoice or notification. In either case, the Contractor is not entitled to any payment or interest unless actual acceptance by the Government occurs.

(c) Interest Penalty.

- (1) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date.
- (2) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date.
- (3) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1.00 need not be paid.
- (4) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

2. ELECTRONIC FUNDS TRANSFER PAYMENT (552.232-73 - AUG 1992)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

(a) Payments under this lease will be made by the Government either by check or electronic funds transfer (EFT). If the

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Lessor elects to receive payment by EFT, after award, but no later than 30 days before the first payment, the Lessor shall designate a financial institution for receipt of EFT payments, and shall submit this designation to the Contracting Officer or other Government official, as directed.

- (b) For payment by EFT, the Lessor shall provide the following information:
- (1) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System.
 - (2) Number of account to which funds are to be deposited.
 - (3) Type of depositor account ("C" for checking, "S" for savings).
 - (4) If the Lessor is a new enrollee to the EFT system, a "Payment Information Form," SF 3881, must be completed before payment can be processed.
- (c) In the event the Lessor, during the performance of this contract, elects to designate a different financial institution for the receipt of any payment made using EFT procedures, notification of such change and the required information specified above must be received by the appropriate Government official no later than 30 days prior to the date such change is to become effective.
- (d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Lessor or an authorized representative designated by the Lessor, as well as the Lessor's name and lease number.
- (e) Lessor failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

3. INVOICE REQUIREMENTS (552.232-72 - VARIATION - APR 1989)

(This clause applies to payments other than rent.)

- (a) Invoices shall be submitted in an original only, unless otherwise specified, to the designated billing office specified in this contract or purchase/delivery order.
- (b) Invoices must include the Accounting Control Transaction (ACT) number provided below or on the purchase/delivery order.
- ACT Number (to be supplied on individual orders)
- (c) If information or documentation in addition to that required by the Prompt Payment clause of this contract is required in connection with an invoice for a particular order, the order will indicate what information or documentation must be submitted.

4. ASSIGNMENT OF CLAIMS (52.232-23 - JAN 1986)

- (a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as the "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.
- (b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.
- (c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

5. COVENANT AGAINST CONTINGENT FEES (552.203-5 - FEB 1990)

- (a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.
- (b) "Bona fide agency," as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

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"Bona fide employee," as used in this clause, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

6. REQUIREMENT FOR CERTIFICATE OF PROCUREMENT INTEGRITY

(52.203-9 — MODIFICATION — NOV 1990)

(Applies to leases which exceed \$100,000.)

- (a) Definitions. The definitions set forth in FAR 3.104-4 are hereby incorporated in this clause.
- (b) The contractor agrees that it will execute the certification set forth in paragraph (c) of this clause, when requested by the Contracting Officer in connection with the execution of any modification of this contract.
- (c) Certification. As required in paragraph (b) of this clause, the officer or employee responsible for the modification proposal shall execute the following certification:

CERTIFICATE OF PROCUREMENT INTEGRITY (MODIFICATION — NOV 1990)

(1) I, [Name of certifier], am the officer or employee responsible for the preparation of this modification proposal and hereby certify that, to the best of my knowledge and belief, with the exception of any information described in this certification, I have no information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Office of Federal Procurement Policy Act, as amended* (41 U.S.C. 423) (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement (contract and modification number).

(2) As required by subsection 27(e)(1)(B) of the Act, I further certify that, to the best of my knowledge and belief each officer, employee, agent, representative, and consultant of [Name of Lessor] who has participated personally and substantially in the preparation or submission of this proposal has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.

(3) Violations or possible violations: (Continue on plain bond paper if necessary and label Certificate of Procurement Integrity-Modification (Continuation Sheet), ENTER "NONE" IF NONE EXISTS)

(SAMPLE - DO NOT COMPLETE OR SIGN THIS CERTIFICATE. THE CONTRACTING OFFICER WILL SPECIFICALLY REQUEST IT WHEN NEEDED.)

[signature of the officer or employee responsible for the modification proposal and date]

[typed name of the officer or employee responsible for the modification proposal]

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

(End of certification)

- (d) In making the certification in paragraph (2) of the certificate, the officer or employee of the competing Contractor responsible for the offer or bid, may rely upon a one-time certification from each individual required to submit a certification to the competing Contractor, supplemented by periodic training. These certifications shall be obtained at the earliest possible date after an individual required to certify begins employment or association with the Contractor. If a Contractor decides to rely on a certification executed prior to the suspension of section 27 (i.e., prior to December 1, 1989), the Contractor shall ensure that an individual who has so certified is notified that section 27 has been reinstated. These certifications shall be maintained by the Contractor for a period of 6 years from the date a certifying employee's employment with the company ends or, for an agency, representative, or consultant, 6 years from the date such individual ceases to act on behalf of the contractor.

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- (e) The certification required by paragraph (c) of this clause is a material representation of fact upon which reliance will be placed in executing this modification.

7. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (52.209-6 - AUG 1995)

- (a) The Government suspends or debar Contractors to protect the Government's interests. Contractors shall not enter into any subcontract in excess of the small purchase limitation at FAR 13.000 with a Contractor that has been debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.
- (b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed the small purchase limitation at FAR 13.000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
- (c) A corporate officer or designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended or proposed for debarment (See FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:
- (1) The name of the subcontractor,
 - (2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs;
 - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs;
 - (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

8. PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (552.203-73 - SEP 1990)

(Applies to leases which exceed \$100,000.)

- (a) If the head of the contracting activity (HCA) or his or her designee determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the Federal Acquisition Regulation, the Government, at its election, may--
- (1) Reduce the monthly rental under this lease by 5 percent of the amount of the rental for each month of the remaining term of the lease, including any option periods, and recover 5 percent of the rental already paid;
 - (2) Reduce payments for alterations not included in monthly rental payments by 5 percent of the amount of the alterations agreement; or
 - (3) Reduce the payments for violations by a Lessor's subcontractor by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was placed.
- (b) Prior to making a determination as set forth above, the HCA or designee shall provide to the Lessor a written notice of the action being considered and the basis therefor. The Lessor shall have a period determined by the agency head or designee, but not less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or designee may, upon good cause shown, determine to deduct less than the above amounts from payments.
- (c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this lease.

9. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (52.215-22 - OCT 1995)

(Applies when cost or pricing data is required for work or service exceeding \$500,000.)

- (a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.
- (b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was

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no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; *provided*, that the actual subcontract price was not itself affected by defective cost pricing data.

- (c) (1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:
- (i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.
 - (ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.
 - (iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.
 - (iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.
- (2) (i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--
- (A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and
 - (B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.
- (ii) An offset shall not be allowed if--
- (A) The understated data was known by the Contractor to be understated when the Certificate or Current Cost or Pricing Data was signed; or
 - (B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.
- (d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--
- (1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
 - (2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or noncurrent.

10. EXAMINATION OF RECORDS BY GSA (552.215-70 - FEB 1996)

The Contractor agrees that the Administrator of General Services, or any duly authorized representative shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services, or any duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract or compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders not exceeding \$100,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

11. DISPUTES (52.233-1 - OCT 1995)

- (a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).
- (b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause,

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if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

- (d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.
- (2) (i) Contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim--
(A) Exceeding \$100,000; or
(B) Regardless of the amount claimed, when using--
(1) Arbitration conducted pursuant to 5 U.S.C. 575-580; or
(2) Any other alternative means of dispute resolution (ADR) technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act (ADRA).
(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."
- (3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.
- (e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.
- (f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.
- (g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use ADR. If the Contractor refuses an offer for alternative disputes resolution, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request. When using arbitration conducted pursuant to 5 U.S.C. 575-580, or when using any other ADR technique that the agency elects to handle in accordance with the ADRA, any claim, regardless of amount, shall be accompanied by the certification described in subparagraph (d)(2)(iii) of this clause, and executed in accordance with subparagraph (d)(3) of this clause.
- (h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.
- (i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

12. EQUAL OPPORTUNITY (52.222-26 - APR 1984)

- (a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.
- (b) During performing this contract, the Contractor agrees as follows:
- (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
 - (2) The Contractor shall take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.
 - (3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
 - (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - (5) The Contractor shall send, to each labor union or representative of workers with which it has a collective

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bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

- (6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
 - (7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.
 - (8) The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purpose of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.
 - (9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
 - (10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
 - (11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- (c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

13. AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS

(52.222-35 - APR 1984 — DEVIATION)

(a) Definitions.

"Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

"Positions that will be filled from within the Contractor's organization," as used in this clause, means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings that the Contractor proposes to fill from regularly establish "recall" lists.

"Employment openings," as used in this clause, includes full-time employment, temporary employment of over 3 days, and part-time employment, but does not include (1) executive and top management positions, (2) positions that will be filled from within the Contractor's organization or under a customary and traditional employer-union hiring arrangement, or (3) openings in an educational institution that are restricted to students of that institution.

(b) General.

- (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a special disabled or Vietnam era veteran. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled and Vietnam era veterans without discrimination based upon their disability or veterans' status in all employment practices such as--
 - (i) Employment;
 - (ii) Upgrading;
 - (iii) Demotion or transfer;
 - (iv) Recruitment;
 - (v) Advertising;
 - (vi) Layoff or termination;
 - (vii) Rates of pay or other forms of compensation; and
 - (viii) Selection for training, including apprenticeship.
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

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(c) Listing openings.

- (1) The Contractor agrees to list all employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.
- (2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their openings with the appropriate office of the State employment service.
- (3) The listing of employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.
- (4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.
- (5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) the Government's needs cannot reasonably be supplied, (ii) listing would be contrary to National security, or (iii) the requirement of listing would not be in the Government's interest.

(d) Applicability.

- (1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
- (2) The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(e) Postings.

- (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.
 - (2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.
 - (3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified special disabled and Vietnam era veterans.
- (f) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
- (g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

14. AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (52.222-36 - APR 1984)

(a) General.

- (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental handicap. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as--
 - (i) Employment;
 - (ii) Upgrading;
 - (iii) Demotion or transfer;
 - (iv) Recruitment;
 - (v) Advertising;
 - (vi) Layoff or termination;
 - (vii) Rates of pay or other forms of compensation; and
 - (viii) Selection for training, including apprenticeship.
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

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(b) Postings.

- (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped individuals and (ii) the rights of applicants and employees.
 - (2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.
 - (3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified physically and mentally handicapped individuals.
- (c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
- (d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$2,500 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

15. EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM

ERA (52.222-37 - JAN 1988)

- (a) The Contractor shall report at least annually, as required by the Secretary of Labor, on:
- (1) The number of special disabled veterans and the number of veterans of the Vietnam era in the workforce of the contractor by job category and hiring location; and
 - (2) The total number of new employees hired during the period covered by the report, and of that total, the number of special disabled veterans, and the number of veterans of the Vietnam era.
- (b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."
- (c) Reports shall be submitted no later than March 31 of each year beginning March 31, 1988.
- (d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period January through March 1 of the year the report is due, or (2) as of December 31, if the Contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).
- (e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 2012(d) shall invite all special disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 2012 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided, that the information will be kept confidential, that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment, and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 2012.
- (f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

16. SUBCONTRACTOR COST OR PRICING DATA (52.215-24 - OCT 1995)

(Applies when the clause 52.215-22 is applicable.)

- (a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.804-2(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.804-2(a)(1), the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.804-1 applies.
- (b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in subsection 15.804-4 of the Federal Acquisition Regulation (FAR) that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.804-2(a)(1), when entered into, the Contractor shall insert either--

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- (1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or
- (2) The substance of the clause at FAR 52.215-25, Subcontractor Cost or Pricing Data -- Modifications.

17. ANTI-KICKBACK PROCEDURES (52.203-7 - OCT 1988)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor," as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from--

- (1) Providing or attempting to provide or offering to provide any kickback;
- (2) Soliciting, accepting, or attempting to accept any kickback; or
- (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

- (c) (1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.
- (2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.
- (3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.
- (4) The Contracting Officer may (i) offset the amount of the kickback against any money owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract, the amount of the kickback. The Contracting Officer may order that money withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset the money under subdivision (c)(4)(i) of this clause. In the either case, the Prime Contractor shall notify the Contracting Officer when the money is withheld.
- (5) The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract.

18. UTILIZATION OF SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS CONCERNS (52.219-8 - OCT 1995)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

- (a) It is the policy of the United States that small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women

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shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women.

- (b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.
- (c) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern (1) which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock of which is unconditionally owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operations are controlled by one or more of such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR 124. The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act. The Contractor shall presume that socially and economically disadvantaged entities also include Indian Tribes and Native Hawaiian Organizations.
- (d) The term "small business concerns owned and controlled by women" shall mean a small business concern (i) which is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women, and (ii) whose management and daily business operations are controlled by one or more women; and
- (e) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals or a small business concern owned and controlled by women.

19. SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN

(Applies to leases which exceed \$500,000.)

- (a) This clause does not apply to small business concerns.
- (b) The Federal Acquisition Regulation clause SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (52.219-9 OCT 1995) is incorporated by reference as if set forth herein in its entirety. This clause can be found in the Lease used to procure this lease or 48 C.F.R. § 52.219.
- (c) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

20. LIQUIDATED DAMAGES-SUBCONTRACTING PLAN (52.219-16 OCT 1995)

- (a) *Failure to make a good faith effort to comply with the subcontracting plan*, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.
- (b) If, at contract completion, or in the case of a commercial products plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small, Small Disadvantage and Women-Owned Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply, shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal

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or, in the case of a commercial products plan, that portion of the dollar amount allocable to Government contracts by which the Contractor failed to achieve each subcontract goal.

- (c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.
- (d) With respect to commercial products plans; i.e., company-wide or division-wide subcontracting plans approved under paragraph (g) of the clause in this contract entitled "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan," the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial products plan.
- (e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.
- (f) Liquidated damages shall be in addition to any other remedies that the Government may have.

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21. LABOR STANDARDS (JAN 1997)

The following Federal Acquisition Regulation clauses shall apply to work performed in preparation for occupancy and use of the building by the United States:

- 52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation
- 52.222-6 Davis-Bacon Act
- 52.222-7 Withholding of Funds
- 52.222-8 Payrolls and Basic Records
- 52.222-9 Apprentices and Trainees
- 52.222-10 Compliance with Copeland Act Requirements
- 52.222-11 Subcontracts (Labor Standards)
- 52.222-12 Contract Termination-Debarment
- 52.222-13 Compliance with Davis-Bacon and Related Act Regulations
- 52.222-14 Disputes Concerning Labor Standards
- 52.222-15 Certification of Eligibility

END EXHIBIT

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22. NO WAIVER (552.270-37 - AUG 1992)

No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

23. INTEGRATED AGREEMENT (552.270-38 - AUG 1992)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

24. MUTUALITY OF OBLIGATION (552.270-39 - AUG 1992)

The obligations and covenants of the Lessor, and the Government's obligation to pay rent and other Government obligations and covenants, arising under or related to this Lease, are interdependent. The Government may, upon issuance of and delivery to Lessor of a final decision asserting a claim against Lessor, set off such claim, in whole or in part, as against any payment or payments then or thereafter due the Lessor under this lease. No setoff pursuant to this clause shall constitute a breach by the Government of this lease.

25. SUCCESSORS BOUND (552.270-18 - AUG 1992)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.

26. Attachments

The following items are attached and made a part of this Lease as if set forth in full herein:

- (a) EXHIBIT A — Services, Utilities and Maintenance
- (b) EXHIBIT B — Construction and Delivery
- (c) EXHIBIT C — Architecture, Finishes, Systems and Accessibility
- (d) EXHIBIT D — Health and Safety
- (e) EXHIBIT E — Government Clauses
- (f) EXHIBIT F — General Clauses (GSA Form 3517) and Representations and Certifications (GSA Form 3518)
- (g) EXHIBIT G — Floor Plan of the Premises

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR:

BY: _____

Its: _____

BY: _____

Its: _____

GOVERNMENT: UNITED STATES OF AMERICA,
acting by and through the Administrator of General Services

BY: _____

CONTRACTING OFFICER, GSA, PBS,

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EXHIBIT F

General Clauses (GSA Form 3517B REV 12/99) and

Representations and Certifications (GSA Form 3518 REV 9/99)

Attach the completed GSA Form 3517B submitted by Lessor.
Attach the completed GSA Form 3518 submitted by Lessor.

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GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

CATEGORY	Clause No.	48 CFR Ref.	Clause Title
DEFINITIONS GENERAL	1	552.270-4	Definitions
	2	552.270-5	Subletting and Assignment
	3	552.270-11	Successors Bound
	4	552.270-23	Subordination, Nondisturbance and Attornment
	5	552.270-24	Statement of Lease
	6	552.270-25	Substitution of Tenant Agency
	7	552.270-26	No Waiver
	8	552.270-27	Integrated Agreement
	9	552.270-28	Mutuality of Obligation
PERFORMANCE	10	552.270-17	Delivery and Condition
	11	552.270-18	Default in Delivery - Time Extensions (Variation)
	12	552.270-19	Progressive Occupancy
	13	552.270-21	Effect of Acceptance and Occupancy
	14	552.270-6	Maintenance of Building and Premises-Right of Entry
	15	552.270-10	Failure in Performance
	16	552.270-22	Default by Lessor During the Term
	17	552.270-7	Fire and Casualty Damage
	18	552.270-8	Compliance with Applicable Law
	19	552.270-12	Alterations
	20	552.270-29	Acceptance of Space
INSPECTION	21	552.270-9	Inspection-Right of Entry
PAYMENT	22	552.232-75	Prompt Payment
	23	552.232-76	Electronic Funds Transfer Payment (Variation)
	24	552.232-70	Invoice Requirements
	25	52.232-23	Assignment of Claims
	26	552.270-20	Payment (Variation)
STANDARDS OF CONDUCT	27	552.203-5	Covenant Against Contingent Fees
	28	52.203-7	Anti-Kickback Procedures
	29	52.223-6	Drug-Free Workplace
ADJUSTMENTS	30	552.203-70	Price Adjustment for Illegal or Improper Activity
	31	52.215-10	Price Reduction for Defective Cost or Pricing Data
	32	552.270-13	Proposals for Adjustment
AUDITS	33	552.270-14	Changes (Variation)
	34	552.215-70	Examination of Records by GSA
	35	52.215-2	Audit and Records—Negotiation
DISPUTES	36	52.233-1	Disputes

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LABOR STANDARDS

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52.222-26
52.222-21
52.222-35

Equal Opportunity
Prohibition of Segregated Facilities
Affirmative Action for Disabled
Veterans and Veterans of the Vietnam
Era
Affirmative Action for Workers with
Disabilities
Employment Reports on Disabled
Veterans and Veterans of the Vietnam
Era

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52.222-36

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52.222-37

SUBCONTRACTING

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52.209-6

Protecting the Government's Interest
When Subcontracting With Contractors
Debarred, Suspended, or Proposed for
Debarment

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52.215-12

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52.219-8

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Subcontractor Cost or Pricing Data
Utilization of Small Business Concerns
Small Business Subcontracting Plan
Liquidated Damages- Subcontracting
Plan

ADVERTISING

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552.203-71

Restriction on Advertising

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GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

1. 552.270-4 - DEFINITIONS (SEP 1999)

The following terms and phrases (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this lease shall have the respective meanings hereinafter specified:

- (a) "Commencement Date" means the first day of the term.
- (b) "Contract" and "Contractor" means "Lease" and "Lessor," respectively.
- (c) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (d) "Delivery Date" means the date specified in or determined pursuant to the provisions of this lease for delivery of the premises to the Government, improved in accordance with the provisions of this lease and substantially complete, as such date may be modified in accordance with the provisions of this lease.
- (e) "Delivery Time" means the number of days provided by this lease for delivery of the premises to the Government, as such number may be modified in accordance with the provisions of this lease.
- (f) "Excusable Delays" mean delays arising without the fault or negligence of Lessor and Lessor's subcontractors and suppliers at any tier, and shall include, without limitation, (1) acts of God or of the public enemy, (2) acts of the United States of America in either its sovereign or contractual capacity, (3) acts of another contractor in the performance of a contract with the Government, (4) fires, (5) floods, (6) epidemics, (7) quarantine restrictions, (8) strikes, (9) freight embargoes, (10) unusually severe weather, or (11) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.
- (g) "Lessor" means the sub-lessor if this lease is a sublease.
- (h) "Lessor shall provide" means the Lessor shall furnish and install at Lessor's expense.
- (i) "Notice" means written notice sent by certified or registered mail, Express Mail or comparable service, or delivered by hand. Notice shall be effective on the date delivery is accepted or refused.
- (j) "Premises" means the space described on the Standard Form 2, U.S. Government Lease for Real Property, of this lease.
- (k) "Substantially complete" and "substantial completion" means that the work, the common and other areas of the building, and all other things necessary for the Government's access to the premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment.
- (l) "Work" means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by the Government as specified in this lease.

2. 552.270-5 - SUBLETTING AND ASSIGNMENT (SEP 1999)

The Government may sublet any part of the premises but shall not be relieved from any obligations under this lease by reason of any such subletting. The Government may at any time assign this lease, and be relieved from all obligations to Lessor under this lease excepting only unpaid rent and other liabilities, if any, that have accrued to the date of said assignment. Any assignment shall be subject to prior written consent of Lessor, which shall not be unreasonably withheld.

3. 552.270-11 SUCCESSORS BOUND (SEP 1999)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.

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4. 552.270-23 - SUBORDINATION, NONDISTURBANCE AND ATTORNMENT (SEP 1999)

- (a) Lessor warrants that it holds such title to or other interest in the premises and other property as is necessary to the Government's access to the premises and full use and enjoyment thereof in accordance with the provisions of this lease. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease. Government agrees, however, within twenty (20) business days next following the Contracting Officer's receipt of a written demand, to execute such instruments as Lessor may reasonably request to evidence further the subordination of this lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this lease.
- (b) No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this lease so long as the Government is not in default under this lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this lease becomes subordinate, or in a separate nondisturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Contracting Officer promptly upon demand.
- (c) In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the Contracting Officer and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.
- (d) None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

5. 552.270-24 - STATEMENT OF LEASE (AUG 1999)

- (a) The Contracting Officer will, within thirty (30) days next following the Contracting Officer's receipt of a joint written request from Lessor and a prospective lender or purchaser of the building, execute and deliver to Lessor a letter stating that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1) the lease is in full force and effect; (2) the date to which the rent and other charges have been paid in advance, if any; and (3) whether any notice of default has been issued.
- (b) Letters issued pursuant to this clause are subject to the following conditions:
- (1) That they are based solely upon a reasonably diligent review of the Contracting Officer's lease file as of the date of issuance;
 - (2) That the Government shall not be held liable because of any defect in or condition of the premises or building;
 - (3) That the Contracting Officer does not warrant or represent that the premises or building comply with applicable Federal, State and local law; and
 - (4) That the Lessor, and each prospective lender and purchaser are deemed to have constructive notice of such facts as would be ascertainable by reasonable prepurchase and precommitment inspection of the Premises and Building and by inquiry to appropriate Federal, State and local Government officials.

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6. 552.270-25 - SUBSTITUTION OF TENANT AGENCY (SEP 1999)

The Government may, at any time and from time to time, substitute any Government agency or agencies for the Government agency or agencies, if any, named in the lease.

7. 552.270-26 - NO WAIVER (SEP1999)

No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

8. 552.270-27 - INTEGRATED AGREEMENT (SEP 1999)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

9. 552.270-28 - MUTUALITY OF OBLIGATION (SEP 1999)

The obligations and covenants of the Lessor, and the Government's obligation to pay rent and other Government obligations and covenants, arising under or related to this Lease, are interdependent. The Government may, upon issuance of and delivery to Lessor of a final decision asserting a claim against Lessor, set off such claim, in whole or in part, as against any payment or payments then or thereafter due the Lessor under this lease. No setoff pursuant to this clause shall constitute a breach by the Government of this lease.

10. 552.270-17 - DELIVERY AND CONDITION (SEP 1999)

- (a) Unless the Government elects to have the space occupied in increments, the space must be delivered ready for occupancy as a complete unit. The Government reserves the right to determine when the space is substantially complete.
- (b) If the premises do not in every respect comply with the provisions of this lease the Contracting Officer may, in accordance with the Failure in Performance clause of this lease, elect to reduce the rent payments.

11. 552.270-18 - DEFAULT IN DELIVERY - TIME EXTENSIONS (SEP 1999) (VARIATION)

- (a) With respect to Lessor's obligation to deliver the premises substantially complete by the delivery date (as such date may be modified pursuant to this lease), time is of the essence. If the Lessor fails to prosecute the work with the diligence that will ensure its substantial completion by the delivery date or fails to substantially complete the work by such date, the Government may by notice to the Lessor terminate this lease, which termination shall be effective when received by Lessor. The Lessor and the Lessor's sureties, if any, shall be jointly and severally liable for any damages to the Government resulting from such termination, as provided in this clause. The Government shall be entitled to the following damages:
 - (1) The Government's aggregate rent and estimated real estate tax and operating cost adjustments for the firm term and all option terms of its replacement lease or leases, in excess of the aggregate rent and estimated real estate tax and operating cost adjustments for the term; provided, if the Government procures replacement premises for a term (including all option terms) in excess of the term, the Lessor shall not be liable for excess Government rent or adjustments during such excess part of such term;
 - (2) All administrative and other costs borne by the Government in procuring a replacement lease or leases;
 - (3) Such other, additional relief as may be provided for in this lease, at law or in equity.
 - (4) Damages to which the Government may be entitled under this clause shall be due and payable thirty (30) days next following the date Lessor receives notice from the Contracting Officer specifying such damages.
- (b) Delivery by Lessor of less than the minimum ANSI/BOMA Usable square footage required by this lease shall in no event be construed as substantial completion, except as permitted by the Contracting Officer.
- (c) Notwithstanding paragraph (a) of this clause, this lease shall not be terminated under this clause nor the Lessor charged with damages under this clause, if (1) the delay in substantially completing the work arises from excusable delays and (2) the Lessor within 10 days from the beginning of any such delay (unless extended in writing by the Contracting Officer) provides notice to the Contracting Officer of the causes of delay. The Contracting

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Officer shall ascertain the facts and the extent of delay. If the facts warrant such action, the delivery date shall be extended, by the Contracting Officer, to the extent of such delay at no additional costs to the Government. A time extension is the sole remedy of the Lessor.

12. 552.270-19 - PROGRESSIVE OCCUPANCY (SEP 1999)

The Government shall have the right to elect to occupy the space in partial increments prior to the substantial completion of the entire leased premises, and the Lessor agrees to schedule its work so as to deliver the space incrementally as elected by the Government. The Government shall pay rent commencing with the first business day following substantial completion of the entire leased premise unless the Government has elected to occupy the leased premises incrementally. In case of incremental occupancy, the Government shall pay rent pro rata upon the first business day following substantial completion of each incremental unit. Rental payments shall become due on the first workday of the month following the month in which an increment of space is substantially complete, except that should an increment of space be substantially completed after the fifteenth day of the month, the payment due date will be the first workday of the second month following the month in which it was substantially complete. The commencement date of the firm lease term will be a composite determined from all rent commencement dates.

13. 552.270-21 - EFFECT OF ACCEPTANCE AND OCCUPANCY (SEP 1999)

Neither the Government's acceptance of the premises for occupancy, nor the Government's occupancy thereof, shall be construed as a waiver of any requirement of or right of the Government under this Lease, or as otherwise prejudicing the Government with respect to any such requirement or right.

14. 552.270-6 - MAINTENANCE OF BUILDING AND PREMISES - RIGHT OF ENTRY (SEP 1999)

Except in case of damage arising out of the willful act or negligence of a Government employee, Lessor shall maintain the premises, including the building, building systems, and all equipment, fixtures, and appurtenances furnished by the lessor under this lease, in good repair and condition so that they are suitable in appearance and capable of supplying such heat, air conditioning, light, ventilation, safety systems, access and other things to the premises, without reasonably preventable or recurring disruption, as is required for the Government's access to, occupancy, possession, use and enjoyment of the premises as provided in this lease. For the purpose of so maintaining the premises, the Lessor may at reasonable times enter the premises with the approval of the authorized Government representative in charge.

15. 552.270-10 - FAILURE IN PERFORMANCE (SEP 1999)

The covenant to pay rent and the covenant to provide any service, utility, maintenance, or repair required under this lease are interdependent. In the event of any failure by the Lessor to provide any service, utility, maintenance, repair or replacement required under this lease the Government may, by contract or otherwise, perform the requirement and deduct from any payment or payments under this lease, then or thereafter due, the resulting cost to the Government, including all administrative costs. If the Government elects to perform any such requirement, the Government and each of its contractors shall be entitled to access to any and all areas of the building, access to which is necessary to perform any such requirement, and the Lessor shall afford and facilitate such access. Alternatively, the Government may deduct from any payments under this lease, then or thereafter due, an amount which reflects the reduced value of the contract requirement not performed. No deduction from rent pursuant to this clause shall constitute a default by the Government under this lease. These remedies are not exclusive and are in addition to any other remedies which may be available under this lease or at law.

16. 552.270-22 - DEFAULT BY LESSOR DURING THE TERM (SEP 1999)

(a) Each of the following shall constitute a default by Lessor under this lease:

- (1) Failure to maintain, repair, operate or service the premises as and when specified in this lease, or failure to perform any other requirement of this lease as and when required provided any such failure shall remain uncured for a period of thirty (30) days next following Lessor's receipt of notice thereof from the Contracting Officer or an authorized representative.
- (2) Repeated and unexcused failure by Lessor to comply with one or more requirements of this lease shall constitute a default notwithstanding that one or all such failures shall have been timely cured pursuant to this clause.

(b) If a default occurs, the Government may, by notice to Lessor, terminate this lease for default and if so terminated, the Government shall be entitled to the damages specified in the Default in Delivery-Time Extensions clause.

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17. 552.270-7 - FIRE AND CASUALTY DAMAGE (SEP 1999)

If the entire premises are destroyed by fire or other casualty, this lease will immediately terminate. In case of partial destruction or damage, so as to render the premises untenable, as determined by the Government, the Government may terminate the lease by giving written notice to the Lessor within 15 calendar days of the fire or other casualty; if so terminated, no rent will accrue to the Lessor after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage. Nothing in this lease shall be construed as relieving Lessor from liability for damage to or destruction of property of the United States of America caused by the willful or negligent act or omission of Lessor.

18. 552.270-8 - COMPLIANCE WITH APPLICABLE LAW (SEP 1999)

Lessor shall comply with all Federal, state and local laws applicable to the Lessor as owner or lessor, or both, of the building or premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. The Government will comply with all Federal state and local laws applicable to and enforceable against it as a tenant under this lease; provided that nothing in this lease shall be construed as a waiver of any sovereign immunity of the Government. This lease shall be governed by Federal law.

19. 552.270-12 - ALTERATIONS (SEP 1999)

The Government shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. If the lease contemplates that the Government is the sole occupant of the building, for purposes of this clause, the leased premises include the land on which the building is sited and the building itself. Otherwise, the Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the leased space.

20. 552.270-29 - ACCEPTANCE OF SPACE (SEP 1999)

- (a) When the Lessor has completed all alterations, improvements, and repairs necessary to meet the requirements of the lease, the Lessor shall notify the Contracting Officer. The Contracting Officer or designated representative shall promptly inspect the space.
- (b) The Government will accept the space and the lease term will begin after determining that the space is substantially complete and contains the required ANSI/BOMA Usable square footage as indicated in the paragraph of this solicitation entitled "Amount and Type of Space."

21. 552.270-9 - INSPECTION - RIGHT OF ENTRY (SEP 1999)

- (a) At any time and from time to time after receipt of an offer (until the same has been duly withdrawn or rejected), after acceptance thereof and during the term, the agents, employees and contractors of the Government may, upon reasonable prior notice to Offeror or Lessor, enter upon the offered premises or the premises, and all other areas of the building access to which is necessary to accomplish the purposes of entry, to determine the potential or actual compliance by the Offeror or Lessor with the requirements of the solicitation or this lease, which purposes shall include, but not be limited to: (1) inspecting, sampling and analyzing of suspected asbestos-containing materials and air monitoring for asbestos fibers; (2) inspecting the heating, ventilation and air conditioning system, maintenance records, and mechanical rooms for the offered premises or the premises; (3) inspecting for any leaks, spills, or other potentially hazardous conditions which may involve tenant exposure to hazardous or toxic substances; and (4) inspecting for any current or past hazardous waste operations, to ensure that appropriate mitigative actions were taken to alleviate any environmentally unsound activities in accordance with Federal, State and local law.
- (b) Nothing in this clause shall be construed to create a Government duty to inspect for toxic materials or to impose a higher standard of care on the Government than on other lessees. The purpose of this clause is to promote the ease with which the Government may inspect the building. Nothing in this clause shall act to relieve the Lessor of any duty to inspect or liability which might arise as a result of Lessor's failure to inspect for or correct a hazardous condition.

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22. 552.232-75 - PROMPT PAYMENT (SEP 1999)

The Government will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

(a) Payment due date.

- (1) Rental payments. Rent shall be paid monthly in arrears and will be due on the first workday of each month, and only as provided for by the lease.
 - (i) When the date for commencement of rent falls on the 15th day of the month or earlier, the initial monthly rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.
 - (ii) When the date for commencement of rent falls after the 15th day of the month, the initial monthly rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.
- (2) Other payments. The due date for making payments other than rent shall be the later of the following two events:
 - (i) The 30th day after the designated billing office has received a proper invoice from the Contractor.
 - (ii) The 30th day after Government acceptance of the work or service. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(b) Invoice and inspection requirements for payments other than rent.

- (1) The Contractor shall prepare and submit an invoice to the designated billing office after completion of the work. A proper invoice shall include the following items:
 - (i) Name and address of the Contractor.
 - (ii) Invoice date.
 - (iii) Lease number.
 - (iv) Government's order number or other authorization.
 - (v) Description, price, and quantity of work or services delivered.
 - (vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the remittance address in the lease or the order.)
 - (vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.
- (2) The Government will inspect and determine the acceptability of the work performed or services delivered within 7 days after the receipt of a proper invoice or notification of completion of the work or services unless a different period is specified at the time the order is placed. If actual acceptance occurs later, for the purpose of determining the payment due date and calculation of interest, acceptance will be deemed to occur on the last day of the 7-day inspection period. If the work or service is rejected for failure to conform to the technical requirements of the contract, the 7 days will be counted beginning with receipt of a new invoice or notification. In either case, the Contractor is not entitled to any payment or interest unless actual acceptance by the Government occurs.

(c) Interest Penalty.

- (1) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date.
- (2) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date.
- (3) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1.00 need not be paid.
- (4) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance

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with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

23. 552.232-76 - ELECTRONIC FUNDS TRANSFER PAYMENT (SEP 1999) (Variation)

- (a) The Government will make payments under this lease by electronic funds transfer (EFT). After award, but no later than 30 days before the first payment, the Lessor shall designate a financial institution for receipt of EFT payments, and shall submit this designation to the Contracting Officer or other Government official, as directed.
- (b) The Lessor shall provide the following information:
 - (1) The lease number to which this notice applies.
 - (2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System.
 - (3) Number of account to which funds are to be deposited.
 - (4) Type of depositor account ("C" for checking, "S" for savings).
 - (5) If the Lessor is a new enrollee to the EFT system, a completed "Payment Information Form," SF 3881.
- (c) In the event the Lessor, during the performance of this contract, elects to designate a different financial institution for the receipt of any payment made using EFT procedures, notification of such change and the required information specified in (b), above must be received by the appropriate Government official no later than 30 days prior to the date such change is to become effective.
- (d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Lessor or an authorized representative designated by the Lessor, as well as the Lessor's name and lease number.
- (e) Lessor failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

24. 552.232-70 - INVOICE REQUIREMENTS (VARIATION) (SEP 1999)

(This clause applies to payments other than rent.)

- (a) Invoices shall be submitted in an original only, unless otherwise specified, to the designated billing office specified in this contract or order.
- (b) Invoices must include the Accounting Control Transaction (ACT) number provided below or on the order.

ACT Number (to be supplied on individual orders)

- (c) If information or documentation in addition to that required by the Prompt Payment clause of this contract is required in connection with an invoice for a particular order, the order will indicate what information or documentation must be submitted.

25. 52.232-23 - ASSIGNMENT OF CLAIMS (JAN 1986)

- (a) The Contractor, under the Assignment of Claims Act, as amended, 31 USC 3727, 41 USC 15 (hereafter referred to as the "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.
- (b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.
- (c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

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26. 552.270-20 - PAYMENT (SEP 1999) (VARIATION)

- (a) When space is offered and accepted, the ANSI/BOMA Usable square footage delivered will be confirmed by:
- (1) the Government's measurement of plans submitted by the successful Offeror as approved by the Government, and an inspection of the space to verify that the delivered space is in conformance with such plans or
 - (2) a mutual on-site measurement of the space, if the Contracting Officer determines that it is necessary.
- (b) Payment will not be made for space which is in excess of the amount of ANSI/BOMA Usable square footage stated in the lease.
- (c) If it is determined that the amount of ANSI/BOMA Usable square footage actually delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of Usable space delivered and the annual rental will be adjusted as follows:

Usable square feet not delivered multiplied by the ANSI/BOMA Usable square foot (USF) rate equals the reduction in annual rent. The rate per USF is determined by dividing the total annual rental by the Usable square footage set forth in the lease.

USF Not Delivered X Rate per USF = Reduction in Annual Rent.

27. 552.203-5 - COVENANT AGAINST CONTINGENT FEES (FEB 1990)

- (a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.
- (b) "Bona fide agency," as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

28. 52.203-7 - ANTI-KICKBACK PROCEDURES (JUL 1995)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

- (a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

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"Prime Contractor," as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from—

- (1) Providing or attempting to provide or offering to provide any kickback;
- (2) Soliciting, accepting, or attempting to accept any kickback; or
- (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

- (c)
- (1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.
 - (2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.
 - (3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.
 - (4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract, the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In the either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.
 - (5) The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

29. 52.223-6 DRUG-FREE WORKPLACE (JAN 1997)

(a) Definitions. As used in this clause —

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to deter-mine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost

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employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

- (b) The Contractor, if other than an individual, shall— within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—
- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - (2) Establish an ongoing drug-free awareness program to inform such employees about—
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The Contractor's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;
 - (4) Notify such employees in writing of the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.
 - (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
 - (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
 - (i) Taking appropriate personnel action against such employee, up to and including termination; or
 - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
 - (7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.
- (c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
- (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

30. 552.203-70 - PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (SEP 1999)

(Applies to leases which exceed \$100,000.)

- (a) If the head of the contracting activity (HCA) or his or her designee determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the Federal Acquisition Regulation, the Government, at its election, may—

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- (1) Reduce the monthly rental under this lease by 5 percent of the amount of the rental for each month of the remaining term of the lease, including any option periods, and recover 5 percent of the rental already paid;
 - (2) Reduce payments for alterations not included in monthly rental payments by 5 percent of the amount of the alterations agreement; or
 - (3) Reduce the payments for violations by a Lessor's subcontractor by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was placed.
- (b) Prior to making a determination as set forth above, the HCA or designee shall provide to the Lessor a written notice of the action being considered and the basis therefor. The Lessor shall have a period determined by the agency head or designee, but not less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or designee may, upon good cause shown, determine to deduct less than the above amounts from payments.
- (c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this lease.
31. 52.215-10 - PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)
- (Applies when cost or pricing data are required for work or service exceeding \$500,000.)
- (a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—
- (1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;
 - (2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or
 - (3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.
- (b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; *provided*, that the actual subcontract price was not itself affected by defective cost or pricing data.
- (c) (1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:
- (i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.
 - (ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.
 - (iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.
 - (iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.
- (2) (i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—
- (A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and
 - (B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

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- (ii) An offset shall not be allowed if--
 - (A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or
 - (B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.
- (d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--
 - (1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
 - (2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

32. 552.270-13 - PROPOSALS FOR ADJUSTMENT (SEP 1999)

- (a) The Contracting Officer may, from time to time during the term of this lease, require changes to be made in the work or services to be performed and in the terms or conditions of this lease. Such changes will be required under the Changes clause.
- (b) If the Contracting Officer makes a change within the general scope of the lease, the Lessor shall submit, in a timely manner, an itemized cost proposal for the work to be accomplished or services to be performed when the cost exceeds \$100,000. The proposal, including all subcontractor work, will contain at least the following details--
 - (1) Material quantities and unit costs;
 - (2) Labor costs (identified with specific item or material to be placed or operation to be performed;
 - (3) Equipment costs;
 - (4) Worker's compensation and public liability insurance;
 - (5) Overhead;
 - (6) Profit; and
 - (7) Employment taxes under FICA and FUTA.
- (c) The following Federal Acquisition Regulation (FAR) provisions also apply to all proposals exceeding \$500,000 in cost --
 - (1) The Lessor shall provide cost or pricing data including subcontractor cost or pricing data (48 CFR 15.403-4) and
 - (2) The Lessor's representative, all Contractors, and subcontractors whose portion of the work exceeds \$500,000 must sign and return the "Certificate of Current Cost or Pricing Data" (48 CFR 15.406-2).
- (d) Lessors shall also refer to 48 CFR Part 31, Contract Cost Principles, for information on which costs are allowable, reasonable, and allocable in Government work.

33. 552.270-14 - CHANGES (SEP 1999) (VARIATION)

- (a) The Contracting Officer may at any time, by written order, make changes within the general scope of this lease in any one or more of the following:
 - (1) Specifications (including drawings and designs);
 - (2) Work or services;
 - (3) Facilities or space layout; or
 - (4) Amount of space, provided the Lessor consents to the change.
- (b) If any such change causes an increase or decrease in Lessor's cost of or the time required for performance under this lease, whether or not changed by the order, the Contracting Officer shall modify this lease to provide for one or more of the following:
 - (1) A modification of the delivery date;
 - (2) An equitable adjustment in the rental rate;
 - (3) A lump sum equitable adjustment; or

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- (4) An equitable adjustment of the annual operating costs per ANSI/BOMA Usable square foot specified in this lease.
- (c) The Lessor shall assert its right to an adjustment under this clause within 30 days from the date of receipt of the change order and shall submit a proposal for adjustment. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the lessor from proceeding with the change as directed.
- (d) Absent such written change order, the Government shall not be liable to Lessor under this clause.

34. 552.215-70 - EXAMINATION OF RECORDS BY GSA (FEB 1996)

The Contractor agrees that the Administrator of General Services, or any duly authorized representative shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services, or any duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract or compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders not exceeding \$100,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

35. 52.215-2 - AUDIT AND RECORDS—NEGOTIATION (JUN 1999)

- (a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
- (b) Examination of costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.
- (c) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to—
 - (1) The proposal for the contract, subcontract, or modification;
 - (2) The discussions conducted on the proposal(s), including those related to negotiating;
 - (3) Pricing of the contract, subcontract, or modification; or
 - (4) Performance of the contract, subcontract or modification.
- (d) Comptroller General—
 - (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.
 - (2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.
- (e) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating—
 - (1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

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(2) The data reported.

- (f) Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition—
- (1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and
 - (2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.
- (g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and—
- (1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;
 - (2) For which cost or pricing data are required; or
 - (3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

36. 52.233-1 - DISPUTES (DEC 1998)

- (a) This contract is subject to the Contract Disputes act of 1978, as amended (41 U.S.C. 601-613)
- (b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (d)
- (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.
 - (2)
 - (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.
 - (ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
 - (iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."
 - (3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.
- (e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-verified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

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- (f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.
- (g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative disputes resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.
- (h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.
- (i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

37. 52.222-26 - EQUAL OPPORTUNITY (FEB 1999)

- (a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.
- (b) During performing this contract, the Contractor agrees as follows:
 - (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.
 - (2) The Contractor shall take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.
 - (3) The Contractor shall post in conspicuous places, available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
 - (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - (5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
 - (7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.
 - (8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government

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to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

- (9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
- (11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

38. 52.222-21 - PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

- (a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
- (b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.
- (c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

39. 52.222-35 - AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998) (DEVIATION)

(a) Definitions.

"Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

"Positions that will be filled from within the Contractor's organization," as used in this clause, means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings that the Contractor proposes to fill from regularly establish "recall" lists.

"Employment openings," as used in this clause, includes full-time employment, temporary employment of over 3 days, and part-time employment, but does not include (1) executive and top management positions, (2) positions that will be filled from within the Contractor's organization or under a customary and traditional employer-union hiring arrangement, or (3) openings in an educational institution that are restricted to students of that institution.

"Veteran of the Vietnam era" means a person who--

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Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

(b) General.

- (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a disabled veteran or veteran of the Vietnam era. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans' status in all employment practices such as—
 - (i) Employment;
 - (ii) Upgrading;
 - (iii) Demotion or transfer;
 - (iv) Recruitment;
 - (v) Advertising;
 - (vi) Layoff or termination;
 - (vii) Rates of pay or other forms of compensation; and
 - (viii) Selection for training, including apprenticeship.
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) Listing openings.

- (1) The Contractor agrees to list all employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.
- (2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their openings with the appropriate office of the State employment service.
- (3) The listing of employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.
- (4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(d) Applicability.

- (1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
- (2) The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(e) Postings.

- (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

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- (2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.
- (3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans and veterans of the Vietnam era.
- (f) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
- (g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

40. 52.222-36 - AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

(a) General.

- (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as—
 - (i) Recruitment, advertising, and job application procedures;
 - (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
 - (iii) Rates of pay or any other form of compensation and changes in compensation;
 - (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 - (v) Leaves of absence, sick leave, or any other leave;
 - (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
 - (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 - (viii) Activities sponsored by the Contractor, including social or recreational programs; and
 - (ix) Any other term, condition, or privilege of employment
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 USC 793) (the Act), as amended.

(b) Postings.

- (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities and (ii) the rights of applicants and employees.
- (2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.
- (3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

- (c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

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- (d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$2,500 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

41. 52.222-37 - EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

- (a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on:
- (1) The number of disabled veterans and the number of veterans of the Vietnam era in the workforce of the contractor by job category and hiring location; and
 - (2) The total number of new employees hired during the period covered by the report, and of that total, the number of special disabled veterans, and the number of veterans of the Vietnam era.
- (b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."
- (c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.
- (d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period January through March 1 of the year the report is due, or (2) as of December 31, if the Contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).
- (e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all special disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided, that the information will be kept confidential, that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment, and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.
- (f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

42. 52.209-6 - PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (AUG 1995)

- (a) The Government suspends or debar Contractors to protect the Government's interests. Contractors shall not enter into any subcontract in excess of the small purchase limitation at FAR 13.000 with a Contractor that has been debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.
- (b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed the small purchase limitation at FAR 13.000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
- (c) A corporate officer or designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended or proposed for debarment (See FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:
- (1) The name of the subcontractor;
 - (2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs;
 - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs;

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- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

43. 52.215-12 - SUBCONTRACTOR COST OR PRICING DATA (OCT 1997)

(Applies when the clause at FAR 52.215-10 is applicable.)

- (a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, which ever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.
- (b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either--
 - (1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or
 - (2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data -- Modifications.

44. 52.219-8 - UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

- (a) It is the policy of the United States that small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.
- (b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.
- (c) Definitions. As used in this contract--
 - (1) "Small business concern" means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.
 - (2) "HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
 - (3) "Small business concern owned and controlled by socially and economically disadvantaged individuals" and "small disadvantaged business concern" mean a small business concern that represents, as part of its offer that--

(i) It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B;

(ii) No material change in disadvantaged ownership and control has occurred since its certification;

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(iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

(4) "Small business concern owned and controlled by women" means a small business concern--

(i) Which is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.

45. 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 1999)

(Applies to leases which exceed \$500,000.)

(a) This clause does not apply to small business concerns.

(b) Definitions. As used in this clause--

"Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract," means any agreement means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, which separately addresses subcontracting with small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all

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subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

- (2) A statement of—
- (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
 - (ii) Total dollars planned to be subcontracted to small business concerns;
 - (iii) Total dollars planned to be subcontracted to HUBZone small business concerns
 - (iv) Total dollars planned to be subcontracted to small disadvantaged business concerns; and
 - (v) Total dollars planned to be subcontracted to women-owned small business concerns.
- (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to (i) small business concerns, (ii) HUBZone small business concerns, (iii) small disadvantaged business concerns and (iv) women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.
- (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, HUBZone, small disadvantaged and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with (i) small business concerns, (ii) HUBZone small business concerns, (iii) small disadvantaged business concerns, and (iv) women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, HUBZone small business, small disadvantaged and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause in this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a subcontracting plan that complies with the requirements of this clause.
- (10) Assurances that the offeror will— (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms and in paragraph (j) of this clause, and (iv) ensure that its subcontractors agree to submit Standard Forms 294 and 295.
- (11) A recitation of the types of records the offeror will maintain concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):
- (i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, HUBZone small business, small disadvantaged and women-owned small business concerns.
 - (ii) Organizations contacted in an attempt to locate sources that are small business, HUBZone small business, small disadvantaged or women-owned small business concerns.
 - (iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating (A) whether small business concerns were solicited and if not, why not, (B) whether HUBZone small business concerns were solicited and if not, why not, (C) whether small disadvantaged business concerns were solicited and if not, why not, (D) whether women-owned small business concerns were

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solicited and if not, why not, and (E) if applicable, the reason award was not made to a small business concern.

- (iv) Records of any outreach efforts to contact (A) trade associations, (B) business development organizations, and (C) conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources.
 - (v) Records of internal guidance and encouragement provided to buyers through (A) workshops, seminars, training, etc., and (B) monitoring performance to evaluate compliance with the program's requirements.
 - (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.
- (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:
- (1) Assist small business, HUBZone small business, small disadvantaged and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small, HUBZone small business, small disadvantaged and women-owned small business subcontractors are excessively long, reasonable efforts shall be made to give all such small business concerns an opportunity to compete over a period of time.
 - (2) Provide adequate and timely consideration of the potentialities of small, HUBZone small business, small disadvantaged and women-owned small business concerns in all "make-or-buy" decisions.
 - (3) Counsel and discuss subcontracting opportunities with representatives of small, HUBZone small business, small disadvantaged and women-owned small business firms.
 - (4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, HUBZone small business, small disadvantaged or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.
- (f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided, (1) the master plan has been approved, (2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and (3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.
- (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.
- (i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.
- (j) The Contractor shall submit the following reports:
- (1) Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.
 - (2) Standard Form 295, Summary Subcontract Report. This report encompasses all the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the

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Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by Standard Industrial Classification (SIC) Major Group. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant SIC Major Group and report all awards to that subcontractor under its predominant SIC Major Group.

46 52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)

- (a) *Failure to make a good faith effort to comply with the subcontracting plan*, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.
- (b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.
- (c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.
- (d) With respect to commercial products plans; i.e., company-wide or division-wide subcontracting plans approved under paragraph (g) of the clause in this contract entitled "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan," the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial products plan.
- (e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.
- (f) Liquidated damages shall be in addition to any other remedies that the Government may have.

47. 552.203-71 - RESTRICTION ON ADVERTISING (VARIATION) (SEP 1999)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services.

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REPRESENTATIONS AND CERTIFICATIONS (Acquisition of Leasehold Interests in Real Property)	Solicitation Number 9CA01019DEA	Dated December 21, 2000
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Complete appropriate boxes, sign the form, and attach to offer.

The Offeror makes the following Representations and Certifications. NOTE: The "Offeror," as used on this form, is the owner of the property offered, not an individual or agent representing the owner.

1. 52.219-1 - SMALL BUSINESS PROGRAM REPRESENTATIONS (NOV 1999)

- (a) (1) The standard industrial classification (SIC) code for this acquisition is 6515.
 (2) The small business size standard applicable to this acquisition is average annual gross revenues of \$15 million or less for the preceding three fiscal years.
 (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations.

- (1) The Offeror represents as part of its offer that it ☒ is, ☐ is not a small business concern.
 (2) (Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The Offeror represents, for general statistical purposes, that it ☐ is, ☒ is not a small disadvantaged business concern as defined in 13 CFR 124.1002.
 (3) (Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this section.) The Offeror represents as part of its offer that it ☐ is, ☒ is not a women-owned small business concern.
 (4) [Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that it—

(i) ☐ is, ☒ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It ☐ is, ☒ is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(4)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

- (5) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision]. The offeror shall check the category in which its ownership falls:

- ☐ Black American.
☐ Hispanic American.
☐ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).
☐ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
☐ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
☐ Individual/concern, other than one of the preceding.

- (c) Definitions. Small business concern, as use in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

Women-owned small business concern, as use in this provision, means a small business concern--

- (1) Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one ore more women; and
 (2) Whose management and daily business operations are controlled by one or more women.

(d) Notice.

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
 (2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference

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programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

- (i) Be punished by imposition of fine, imprisonment, or both;
- (ii) Be subject to administrative remedies, including suspension and debarment; and
- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

2. 52.204-5 - WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)

- (a) **Definition.** "Women-owned business concern," as used in this provision, means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.
- (b) **Representation.** [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it [] is a women-owned business concern..

3. 52.222-22 - PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The Offeror represents that --

- (a) It [] has, [x] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- (b) It [] has, [x] has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards. (Approved by OMB under Control Number 1215-0072.)

4. 52.222-25 - AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The Offeror represents that --

- (a) It [] has developed and has on file, [x] has not developed and does not have on file, at each establishment affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or
- (b) It [x] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. (Approved by OMB under Control Number 1215-0072.)

5. 52.203-02 - CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

(a) The Offeror certifies that--

- (1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

- (1) Is the person in the Offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above Joseph Beauchamp (insert full name of person(s) in the Offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the Offeror's organization);
- (ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
- (iii) As an agent, has not personally participated, and will not participate, in action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the Offeror deletes or modifies subparagraph (a)(2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

6. 52.203-11 - CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991) (DEVIATION)

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(Applies to leases which exceed \$ 000.)

- (a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, are hereby incorporated by reference in paragraph (b) of this certification.
- (b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989--
 - (1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation.
 - (2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and
 - (3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
- (c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

7. 52.209-5 - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAR 1996)

(Applies to leases which exceed \$100,000 average net annual rental, including option periods.)

- (a) (1) The Offeror certifies, to the best of its knowledge and belief, that--
 - (i) The Offeror and/or any of its Principals--
 - (A) Are ☐ are not ☒ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
 - (B) Have ☐ have not ☒, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
 - (C) Are ☐ are not ☒ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.
 - (ii) The Offeror has ☐ has not ☒, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
- (2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

8. 52.204-3 - TAXPAYER IDENTIFICATION (JUN 1997)

- (a) Definitions.

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"Common parent," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

- * TIN: (b) (4)
- * TIN has been applied for.
- * TIN is not required because:
- * Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- * Offeror is an agency or instrumentality of a foreign government;
- * Offeror is an agency or instrumentality of the Federal government;

(e) Type of organization.

- * Sole proprietorship;
- * Partnership; Not a corporate entity;
- * Corporate entity (not tax-exempt);
- * x Corporate entity (tax-exempt);
- * Government entity (Federal, State, or local);
- * Foreign government;
- * International organization per 26 CFR 1.6049-4;
- * Other _____

(f) Common Parent.

- * Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
- * Name and TIN of common parent:

Name _____
TIN _____

9. OFFEROR'S DUNS NUMBER (APR 1996)

Enter number, if known: _____

OFFEROR OR AUTHORIZED REPRESENTATIVE	Name and Address (Including ZIP Code)	Telephone Number
	Western Devcon, Inc. 10525 Vista Sorrento Parkway Suite 110 San Diego, CA 92121	858-587-9999 858-587-1954 Fax
	Signature Joseph Beauchamp	Date December 21, 2000

INITIALS:

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EXHIBIT G

Floor Plan of the Premises

Attach plans showing premises.

US Drug Enforcement Administration

September 2000

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ATTACHMENT 8
Cleaning Work and Quality Requirements

SFO NO. 9CA01019 (b) (7)(F)

September 2000

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CLEANING WORK AND QUALITY REQUIREMENTS

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NOTE: The quality requirement(s) for each cleaning requirement are indicated by an * in front of the paragraph.

CLEANING WORK AND QUALITY REQUIREMENTS

1. Toilet Rooms.

A. DAILY:

(1) Sweep and wet mop or scrub floor utilizing a cleaner-disinfectant in accordance with the manufacturer's directions.

* Sweeping, Wet Mopping or Scrubbing: The floors shall be clean and free of dirt, water streaks, water spots, mop marks, string, gum, grease, tar, etc.; and present an overall appearance of cleanliness. All surfaces shall be dry and the corners clean.

(2) Clean and disinfect all fixtures, including metal and chrome surfaces, water closets, urinals, shelving, washbasins, shower stalls, mirrors, waste receptacles, dispensers, and wall surfaces, utilizing a cleaner-disinfectant. Raise water closet seats.

* Fixture Cleaning: Porcelain fixtures and metal surfaces (washbasins, urinals, toilets, shower stalls, etc.) shall be clean and bright; there shall be no dust, spots, stains, rust, mold, encrustation, or excess moisture.

(3) Empty waste receptacles, service/supply paper towel, soap, toilet paper, seat cover, and sanitary napkin dispensers. Empty, clean and disinfect sanitary napkin receptacles; replace soiled bags with new ones. Collect soiled bags in separate containers for disposal.

NOTE: Trash can liners (liners) shall be used and replaced in all waste and sanitary napkin collection receptacles. Liners shall not be worn, torn, dirty or contain residue.

* Servicing: All supplies shall be provided and dispensers shall be filled. Waste receptacles shall be emptied and sanitary napkin receptacles emptied, cleaned, disinfected, and new bags inserted.

(4) Spot-clean other surfaces and dust horizontal surfaces.

* Spot Cleaning: Smudges, marks, or spots shall have been removed without causing unsightly discolorations.

* Thorough Dusting: There shall be no dust streaks. Corners, crevices, moldings and ledges shall be free of all dust. There shall be no oils, spots or smudges on dusted surfaces caused by dusting tools. When inspected with a flashlight, there shall be few traces of dust on any surface.

(5) During the day empty waste receptacles and service dispensers, police rooms and clean washbasins as traffic demands.

* Servicing: See Quality Requirements outlined in paragraph 1A(3).

* Policing: Toilet rooms shall be free of all paper, trash, empty bottles, and other discarded material.

NOTE: The contractor shall service all toilet rooms to maximum capacity during the afternoon of the last day of the contract period. Dispenser stock of paper supplies and hand soap remaining at the termination of the last official work day shall not be removed.

B. WEEKLY: Damp mop and treat resilient floors in accordance with the manufacturer's directions.

* Damp Mopping and Treatment: Floors shall be free of streaks, mop strand marks and skipped areas. Walls, baseboards, and other surfaces shall be free of splashes and markings from the equipment. The finished area should have a uniform luster.

C. EVERY TWO MONTHS: Damp wipe the full surface area of all walls, stall partitions, doors, window frames, sills, and wastepaper receptacles utilizing a multi-purpose disinfectant-deodorizer cleaner.

* Damp Wiping: All dirt, dust, water stains, spots, streaks and smudges shall be removed from the surfaces.

D. SEMI-ANNUALLY: In accordance with the manufacturer's directions, strip and apply an approved slip-resistant floor finish to resilient floors.

* Stripping: All old floor finish shall be removed. There

shall be no evidence of gum, rust, burns, or scuff marks.
There shall be no buildup in corners or crevices.

* Finishing: Walls, baseboards, and other surfaces shall be free of finish residue and marks from the equipment. Floors shall be free of streaks, mop strand marks, and skipped areas.

E. ANNUALLY: In accordance with the manufacturer's directions, strip and seal all hard floors with an approved slip-resistant coating.

* Sealing: Sealant must adhere to the floor. All floor areas must be evenly coated. Spots and stains will be eliminated.

* Stripping: See Quality Requirement outlined in paragraph 1D.

2. Room Cleaning.

Includes all office areas, classrooms, libraries, conference rooms, ADP areas, physical fitness rooms, locker rooms, kitchen/lunch rooms, interaction space, and the corridor space adjacent to these areas.

A. DAILY:

(1) In office areas, classrooms, libraries, conference rooms, ADP areas, physical fitness rooms, locker rooms, kitchen/lunch rooms, interaction space, and the corridor space adjacent to these areas:

(a) Sweep bare floor and vacuum carpet traffic patterned areas; extend sweeping or vacuuming to remove obvious dirt from around and under furniture.

* Vacuuming: Carpet surfaces shall be free of obvious dirt, dust, and other debris.

NOTE: Vacuum cleaners shall be equipped with magnetic bar/attachment to attract metal (i.e., paper clips, staples, etc.) to protect the vacuum motor from damage.

* Sweeping: Floor surfaces shall be free of obvious dirt or debris.

NOTE: For the purpose of this contract, the term carpet or carpeting

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refers to all carpet variations (i.e., wall to wall, carpet tiles, room size rugs, area rugs, etc.).

(b) Thoroughly dust with a treated dust cloth all horizontal surfaces 70 inches and below that are readily available and visibly require dusting.

* Through Dusting: Available horizontal surfaces shall be free of obvious dust. There shall be no oils, spots, or smudges on dusted surfaces caused by dusting tools.

NOTE: In dusting of horizontal spaces, working papers shall not be disturbed. However, desk type items shall be lifted and dust removed from the surrounding areas.

* Dusting (Glass Desk Tops): Glass desk tops shall be free of dirt, dust, streaks, and spots.

* Thorough Vacuuming: Carpets, including corners, shall be clean and free from dust balls, dirt, and other debris; nap on carpets shall lie in one direction upon completion of the vacuuming task. See Note 2A(1)(a).

* Thorough Sweeping: Floors shall be clean and free of trash and foreign matter. No dirt shall be left in corners, under furniture, or behind doors.

(2) Empty wastebaskets and waste receptacles and remove trash to designated disposal area. Clean washbasins and mirrors, as necessary; supply paper towels where dispensers are provided. Clean areas used for the collection of solid wastes. Wash or steam clean all cans used for collection of food remnants, inside and out.

NOTE: Carts and containers used for the collection and/or storage of waste material shall be of noncombustible or flame resistant construction.

NOTE: Trash can liners (liners) shall be used and replaced in all wastebaskets, waste receptacles and food remnant collection cans. Liners shall not be worn, torn, dirty or contain residue.

* Solid Waste Collection: All solid wastes generated in the building shall be collected and removed to storage areas designated for trash.

* Stainless Steel Ware Cleaning: Washbasins shall be clean and bright; there shall be no dust, stains, or rust.

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mold, encrustation, or excess moisture.

* Damp Wiping (Mirrors): Damp wipe mirrors with a glass cleaning agent. Mirrors shall be clean and free of dirt, dust, streaks, and spots.

(3) Clean both sides of plate glass entrance doors to offices within the building with a glass cleaning agent. Clean and polish metal doorknobs, push bars, kick plates, railings, and other metal surfaces surrounding interior plate glass in accordance with the manufacturer's instructions.

* Interior Glass Cleaning: Glass shall be clean and free of dirt, dust, streaks, watermarks, spots and grime, and shall not be cloudy.

* Metal Polishing: Metal surfaces shall be free of smears, stains and finger marks. They shall be clean, bright and polished to a uniform luster.

(4) Spot clean carpet to remove all stains.

* Carpet Spotting: Excessive buildup, spillages or crusted material shall be removed along with spots, smears and stains. There shall be no evidence of fuzzing caused by harsh rubbing or brushing. Cleaned areas shall blend with adjacent areas of carpeting.

B. EVERY TWO WEEKS: Damp mop and treat all hard and resilient flooring in accordance with the manufacturer's directions.

* Damp Mopping and Treatment: Floors shall be free of streaks, mop strand marks and skipped areas. Walls, baseboards, and other surfaces shall be free of splashes and markings from the equipment. The finished area shall have a uniform luster.

C. MONTHLY:

(1) In office areas, classrooms, libraries, conference rooms, ADP areas, physical fitness rooms, locker rooms, kitchen/lunch rooms, interaction space, and the corridor space adjacent to these areas:

(a) Thoroughly dust all horizontal, vertical and under surfaces (knee wells, chairs rungs, table legs, etc.) of furniture and all wall surfaces 70 inches and below. Clean glass desk tops.

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* Thorough Dusting: There shall be no dust streaks. Corners, crevices, moldings, and ledges shall be free of all dust. There shall be no oils, spots, or smudges on dusted surfaces caused by dusting tools.

* Dusting (Glass Desk Tops): See Quality Requirement outlined in paragraph 2A(1)(b).

(b) Thoroughly vacuum carpets with vacuum cleaners equipped with brushes and/or beater bars.

* Thorough Vacuuming: See Quality Requirement outlined in paragraph 2A(3)(b) and Note 2A (1)(a).

(c) Sweep full floor areas.

* Thorough Sweeping: See Quality Requirement outlined in paragraph 2A(1)(b).

(2) Spot clean wall surfaces 70 inches and below.

* Spot Cleaning: Smudges, marks, or spots shall have been removed without causing unsightly discoloration.

(a) Thoroughly dust all vertical surfaces and under surfaces of furniture (knee wells, chair rungs, table legs, etc.).

* Thorough Dusting: See Quality Requirement outlined in paragraph 2A(1)(b).

(b) Damp wipe with a glass cleaning agent both sides of all glass in doors, partitions, and bookcases, and any other glass within 70 inches of the floor.

* Interior Glass Cleaning: See Quality Requirement outlined in paragraph 2A(3).

D. SEMI-ANNUALLY: In office areas, classrooms, libraries, conference rooms, ADP areas, physical fitness rooms, locker rooms, kitchen/lunch rooms, interaction space, and the corridor space adjacent to these areas:

(1) Damp wipe with a glass cleaning agent all glass in interior office doors, partitions, and bookcases.

* Interior Glass Cleaning: See Quality Requirement outlined in paragraph 2A(3).

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(2) Treat floor in accordance with the manufacturer's directions.

* Stripping: All old finish or wax shall have been removed. There shall be no evidence of gum, rust, burns, or scuff marks.

* Buffing and Treatment: Walls, baseboards, and other surfaces shall be free of finish residue and marks from equipment. Floors shall be free of streaks, mop strand marks and skipped areas. The finished area shall have a uniform luster.

E. ANNUALLY: In accordance with the manufacturer's directions, strip and apply an approved slip-resistant floor finish to all resilient flooring.

* Stripping: See Quality Requirement outlined in paragraph D.(2).

* Finishing: Walls, baseboards, and other surfaces shall be free of finish residue and marks from equipment. Floors shall be free of streaks, mop strand marks, and skipped areas. The finished area shall have a uniform luster.

F. SERVICES TO BE PERFORMED AS REQUIRED TO MAINTAIN QUALITY:

(1) Provide plastic liners for wastebaskets to keep them in an acceptable condition.

* Cleaning Wastebaskets: Wastebaskets shall be free of dust, debris, and residue. Plastic liners shall not be torn, worn, or contain residue.

(2) Wipe down and treat surfaces of wood paneling in accordance with the manufacturer's instructions.

* Cleaning Wood Paneling: Paneling shall be free of dirt, dust, streaks, and spots.

3. Main Entrances, Main Lobbies and Main Corridors.

A. DAILY:

(1) Sweep bare floors and vacuum carpeted floor area. Clean and polish metal doorknobs, push bars, kick plates, railings,

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and other metal surfaces; clean and polish wood handrails, doors, and other wood surfaces; clean spots and marks off walls, dust all surfaces within 70 inches of the finished the floor.

* Thorough Sweeping: Floors shall be clean and free of trash and foreign matter. No dirt shall be left in corners, under furniture, or behind doors.

* Thorough Vacuuming: Carpets shall be clean and free from dust balls, dirt, and other debris; nap on carpets shall lie in one direction upon completion of the vacuuming task. Also see Note 2A(1)(a).

* Metal Polishing: Metal surfaces shall be free of smears, stains, and finger marks. They shall be clean, bright and polished to a uniform luster.

* Wood Polishing: Wood surfaces shall be clean and free of smudges and residue.

* Spot Cleaning: Smudges, marks or, spots shall be removed without causing unsightly discoloration.

* Thorough Dusting: There shall be no dust streaks. Corners, crevices, moldings, and ledges shall be free of all dust. There shall be no oils, spots, or smudges on dusted surfaces caused by dusting tools.

(2) Damp mop and treat all hard and resilient floors in accordance with the manufacturer's directions.

* Damp Mopping and Treatment: Floors shall be free of streaks, mop strand marks, and skipped areas. Walls, baseboards, and other surfaces shall be free of splashes and markings from the equipment. The finished area should have a uniform luster.

(3) Clean with a glass cleaning agent both sides of entrance door glass and glass surrounding entrance doors within 70 inches of the floor.

* Glass Cleaning: All glass shall be clean and free of dirt, grime, dust, streaks, watermarks, and spots; and, shall not be cloudy.

B. WEEKLY: Damp wipe glass with a glass cleaning agent in directories, bulletin boards, displays, etc.

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* Glass Cleaning: See quality Requirement outlined in paragraph A(3).

C. QUARTERLY:

(1) Clean and polish metal door thresholds.

* Thresholds: Thresholds shall be clean and free of oil, grease, dirt, and grime.

(2) Damp wipe with a non-caustic cleaning agent exposed concrete wall surfaces.

* Damp Wiping: Surfaces shall be clean and free of hand marks, smudges, dirt, dust, and spots.

(3) In accordance with the manufacturer's directions, buff resilient floors (i.e., seamless vinyl sheeting and vinyl composition tile) to maintain a clean appearance.

* Buffing: Floors shall be clean and free of marks, scuffs, spots, dirt and have a uniform luster.

D. SEMI-ANNUALLY: Strip and apply an approved slip-resistant floor finish to all hard and resilient floors in accordance with the manufacturer's directions.

* Stripping: All old finish or wax shall have been removed. There shall be no evidence of gum, rust, burns, or scuff marks. Water solutions shall not be used on wood flooring.

* Finishing: Walls, baseboards, and other surfaces shall be free of finish residue and marks from equipment. Floors shall be free of streaks, mop strand marks, and skipped areas. The finished area shall have a uniform luster.

NOTE: Additional coats of finish may be required between this frequency in order to meet the Quality Requirements identified in a(2).

4. Secondary Entrances, Secondary Lobbies and Secondary Corridors.

A. DAILY: Sweep bare floors and vacuum carpeted floor area.

* Thorough Sweeping: Floors shall be clean and free of

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trash and foreign matter. No dirt shall be left in corners or behind doors.

* Thorough Vacuuming: Carpets shall be clean and free from dust balls, dirt, and other debris. See Note 2A(1)(a).

B. EVERY TWO WEEKS:

(1) Damp mop and treat all hard and resilient floors in accordance with the manufacturer's directions.

* Damp Mopping and Treatment: Floors shall be free of streaks, mop strand marks, and skipped areas. Walls, baseboards, and other surfaces shall be free of splashing and markings from the equipment. The finished area shall have a uniform luster.

(2) Polish kick plates, push plates, push bars on doors, handrails, door knobs, and other metal surfaces.

* Polishing: Metal surfaces shall be clean and have a polished and lustrous appearance.

C. MONTHLY:

(1) Using a glass cleaning agent, clean both sides of entrance and corridor door glass and glass surrounding these doors within reach.

(2) Damp wipe glass in directories, bulletin boards, etc. with a glass cleaning agent.

* Glass Cleaning: All glass shall be clean and free of dirt, grime, dust, streaks, watermarks, and spots; and, shall not be cloudy.

D. QUARTERLY:

(1) Clean and polish metal door thresholds.

* Thresholds: Thresholds shall be clean and free of oil, grease, dirt, and grime.

(2) Damp wipe with a non-caustic cleaning agent exposed concrete wall surfaces.

(3) In accordance with the manufacturer's directions, buff resilient floors (i.e., seamless vinyl sheeting and vinyl

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composition tile) to maintain a clean appearance.

* Buffing: Floors shall be clean and free of marks, scuffs, spots, dirt and have a uniform luster.

* Damp Wiping: Surfaces shall be clean and free of hand marks, smudges, dirt, dust, and spots.

E. ANNUALLY: Strip and apply an approved slip-resistant floor finish to resilient floors in accordance with the manufacturer's directions.

* Stripping: All old finish or wax shall have been removed. There shall be no evidence of gum, rust, burns, or scuff marks.

* Finishing: Walls, baseboards, and other surfaces shall be free of finish residue and marks from the equipment. Floors shall be free of streaks, mop strand marks, and skipped areas.

NOTE: Additional coats of finish may be required between this frequency in order to meet the Quality Requirements identified in B and the manufacturer's care and maintenance instructions.

5. Stairways. Not Applicable (See Number 6 below).

6. Loading Areas. (Includes platforms, docks, and stairs.)

A. DAILY: Sweep

* Sweeping: Loading areas and stairs shall be clean and free of trash, debris, and foreign matter. No dirt shall be left in corners, crevices, or where sweepings were picked up.

B. QUARTERLY: Wet mop and scrub.

* Wet Mopping and Scrubbing: Area shall be clean and free of dirt, string, gum, grease, tar, oil spots, etc., and present an overall appearance of cleanliness. All surfaces shall be dry and the corners clean.

7. Garages. Not Applicable.

8. Passenger Elevators. Not Applicable.

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9. Freight Elevators. Not Applicable.

10. Escalators. Not Applicable.

11. Ash Receptacles. Not Applicable.

12. Drinking Fountains.

A. DAILY: Clean drinking fountains and replenish paper cups where dispensers are provided.

* Cleaning Drinking Fountains: The porcelain or stainless steel surfaces shall be clean and bright, and they shall be free of dust, spots, stains, and streaks. Drinking fountains shall be kept free of trash, ink, coffee grounds, etc..

* Metal Polishing: Metal surfaces shall have a polished and lustrous appearance.

13. Guard Booth(s) (Exterior). Not Applicable.

14. Laboratory Areas. Laboratory areas are identified as the analytical laboratories, the fingerprint laboratory, spaces identified as laboratory support (e.g., instrument rooms, specialized laboratory space, glasswash, etc.) and the corridor space adjacent to these areas.

A. DAILY: Empty wastebaskets, dust resilient flooring, and vacuum rug area. Supply paper towels where dispensers are provided.

* Solid Waste Collection: See Quality Requirement outlined in paragraph 2A(1).

* Thorough Vacuuming: Carpets shall be clean and free from dust balls, dirt, and other debris; nap on carpets shall lie in one direction upon completion of the vacuuming task. See Note 2A(1)(a).

* Thorough Sweeping: Floors shall be clean and free of trash and foreign matter. No dirt shall be left in corners, under casework (where accessible), or behind doors.

B. WEEKLY:

(1) Dust vertical surfaces and under surfaces of furniture (knee wells, chair rungs, table legs, etc.).

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* Thorough Dusting: See Quality Requirement outlined in paragraph 1A(1).

(2) Damp mop all hard and resilient floors in accordance with the manufacturer's directions.

* Damp Mopping: Floors shall be free of streaks, mop strand marks, and skipped areas. Walls, baseboards, and other surfaces shall be free of splashes and markings from the equipment.

C. MONTHLY:

(1) Damp wipe with a glass cleaning agent both sides of all glass in doors and any other glass within approximately 70 inches of the floor.

* Interior Glass Cleaning: Glass shall be clean and free of dirt, dust, streaks, watermarks, spots, and grime; and, shall not be cloudy.

(2) Spot-clean wall surfaces within approximately 70 inches of the floor.

* Spot Cleaning: Smudges, marks or spots shall have been removed without causing unsightly discolorations.

D. QUARTERLY: In accordance with the manufacturer's directions, buff resilient floors (i.e., seamless vinyl sheeting and vinyl composition tile) to maintain a clean appearance.

* Buffing: Floors shall be clean and free of marks, scuffs, spots, dirt and have a uniform luster.

E. SEMI-ANNUALLY: Strip and apply an approved slip-resistant floor finish to all hard and resilient floors in accordance with the manufacturer's directions.

* Stripping: All old finish or wax shall have been removed. There shall be no evidence of gum, rust, burns, or scuff marks. Water solutions shall not be used on wood flooring.

* Finishing: Walls, baseboards, and other surfaces shall be free of finish residue and marks from equipment. Floors shall be free of streaks, mop strand marks, and skipped areas. The finished area shall have a uniform

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luster.

NOTE: Additional coats of finish may be required between this frequency in order to meet the quality requirements identified in a(2).

15. Exterior Cleaning.

A. DAILY:

(1) Police all sidewalks, parking areas, driveways, lawns, plazas, enclosed courtyard/garden, secure truck yard, etc.

* Policing (Grounds and Sidewalks): Areas shall be free of all paper, trash, drink containers (cans, bottles, etc.), and other discarded material.

B. WEEKLY: Sweep sidewalks, parking areas and driveways, including moats, arcades, plazas and courts, weather permitting.

* Sweeping (Outside Areas): Areas shall be clean of all dirt, trash, leaves, twigs, etc.. No dirt shall be left where Sweepings were picked up.

NOTE: Additional sweeping shall be required on windy days, following storms and seasonally (e.g., in Fall when trees are shedding leaves) as required. During winter, snow removal (shoveling or sweeping) extending outward a distance of ten feet from the main entrance doors shall be provided.

16. Telephone Areas (Public). Not Applicable.

17. Storage Space.

A. MONTHLY: Sweep the full floor area.

* Thorough Sweeping: Floors shall be clean and free of trash and foreign matter. No dirt shall be left in corners, under furniture, or behind doors.

18. Entrance Rugs.

A. EVERY TWO MONTHS: Clean entrance rugs in accordance with the manufacturer's instructions as required to maintain quality standards but no less than six times a year.

* Cleaning (Entrance Rugs): Rugs shall be clean and free

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of dirt, grime, stains, and excessive buildup of crusted material.

19. Window and Glass Cleaning.

A. SEMI-ANNUALLY: Wash both sides of all exterior building windows, including spandrel glass, glass over and in exterior and vestibule doors, and all plate glass around entrances, lobbies and vestibules in accordance with manufacturer's directions.

B. EVERY OTHER MONTH: Wash both sides of first floor lobby plate glass in accordance with the manufacturer's instructions.

* Window Washing: Washed glass shall be clean and free of dirt, grime, streaks, and excessive moisture and shall not be cloudy. Window sashes, sills, woodwork, and other surroundings of interior glass shall be wiped free of drippings and other watermarks.

20. Venetian Blinds and Drapes.

A. MONTHLY:

(1) Dust or vacuum all Venetian blinds.

* Dusting (Venetian Blinds): Both sides of blind slats shall be free of dust.

B. QUARTERLY:

(1) Vacuum in place all draperies. Soiled or dirty drapes shall be removed for cleaning in accordance with the manufacturer's instructions.

* Vacuuming (Drapes): Both sides of drapes shall be vacuumed.

NOTE: Replacement of draw cords may be required at times other than scheduled maintenance.

C. ANNUALLY:

(1) Remove from the building premises all Venetian blinds and wash. Venetian blinds shall be returned and hung within five working days. Clean cords and tapes. Defective cords and tapes shall be replaced.

* Washing (Venetian Blinds): Both sides of Venetian blind

slats shall be clean and free of dust and water spots.

NOTE: Replacement of cords and tapes may be required between annual maintenance intervals.

D. BIANNUALLY:

(1) Remove from the building premises all drapes and clean in accordance with the manufacturer's instructions. Drapes shall be returned and hung within five working days. Defective draw cords shall be replaced. See Note 20B (1).

21. High Cleaning.

A. ANNUALLY: Clean surfaces and objects in the building approximately 70 inches or more from the floor. This includes but is not limited to the wall and ceiling areas, ventilating and air conditioning outlets, transoms, clocks, ceiling moldings, tops of partitions, overhead pipes, wall fans, pictures, plaques, wall or ceiling diffusers, file cases, bookcases, lockers, etc..

* High Cleaning: Surfaces shall be clean and free of dust. Where glass is present, both sides shall be clean and free of streaks.

NOTE: To limit work disruptions, cleaning may occur after normal hours of operation. All high cleaning shall be coordinated with the tenant.

22. Hard Floor Maintenance.

A. ANNUALLY: In accordance with the manufacturer's directions, in the first ninety days of the initial contract period, strip, seal and apply floor finish to all hard floors such as concrete, brick, terrazzo, marble, ceramic tile, etc., with the exception of hard floors in restrooms which shall be sealed only. Floors shall be sealed with a penetrating seal which fills the pores of the matrix and becomes a bonded, integral part of the surface. Surfaces shall be slip-resistant.

* Stripping: All old finish or wax shall have been removed. There shall be no evidence of gum, rust, burns, or scuff marks.

* Sealing: Sealant must adhere to the floor. All floor areas must be coated. Spots and stains will be eliminated.

* Finishing: Walls, baseboards and other surfaces shall be

free of finish residue and marks from equipment. Floors shall be free of streaks, mop strand marks, and skipped areas. The finished area shall have a uniform luster.

23. Floor Mats.

SERVICES TO BE PERFORMED AS REQUIRED TO MAINTAIN QUALITY STANDARDS:

During inclement weather, lay out floor mats in entrance ways and lobbies. Clean, remove and store mats when no longer required.

* Cleaning (Floor Mats): Stored mats shall be clean and free of dirt, grime, stains, and excessive buildup of crusted material.

24. ADP Areas. See Item 2, Room Cleaning.

25. Utility Work.

A. DAILY: As required. The work shall include but is not limited to the following activities:

(1) Service main lobbies and high public use areas.

* Servicing: Main lobbies and high public use areas shall be free of all paper, trash, empty bottles, and other discarded material. There shall be no evidence of wads of gum, spots of tar, wet areas or any foreign substances. Drinking fountains and glass surfaces shall be tidy.

(2) Servicing complaints and performing special cleaning required by alterations to the building; special conferences; cleanup work made necessary by toilet floods and similar occurrences.

26. Carpet Cleaning.

A. ANNUALLY: In accordance with the manufacturer's directions, clean all carpeting in public lobbies and corridors. Clean office area carpeting at the direction of the tenant. Scheduling of this work shall be coordinated with the tenant.

* Carpet Cleaning: Spots, smears, and stains shall have been removed. Work shall be performed in a workmanlike and professional manner. When necessary, furniture, equipment, etc., will have been moved in an orderly manner and upon completion returned to their original positions.

Carpet will have been protected from soiling and damage by using protective paper and placing protective pads between furniture and damp carpet.

27. Cleaning in Kitchen and Lunch Room.

A. The custodial contractor shall be responsible for the following custodial services required in the kitchen and lunch room areas: cleaning of sinks, counters, tables/chairs, carpeting, sweeping and damp mopping the floor, treating the floor in accordance with the manufacturer's directions, vacuuming of Venetian blinds and drapes, high cleaning, and window/glass washing. Refer to Item 2, Room Cleaning; Item 19, Window and Glass Cleaning; Item 20, Venetian Blinds and Drapes; and, Item 21, High Cleaning for cleaning and quality requirements.

B. DAILY:

(1) Clean all sink, counter and table surfaces utilizing a cleaner-disinfectant.

* Cleaning: Sink, counter and table surfaces shall be clean; there shall be no dust, spots, stains, rust, mold, encrustation, or excess moisture.

NOTE: If items (dishes, cups, eating utensils, etc.) are left in the sink or on the counter the tenant shall be notified. Only those surfaces free of clutter shall be cleaned.

(2) Spot-clean other surfaces and dust horizontal surfaces (top of appliances (e.g., refrigerators, etc.) and chairs).

* Spot Cleaning: Smudges, marks, or spots shall be removed.

* Thorough Dusting: There shall be no dust streaks.

28. Cleaning in Secure Space.

The following are designated secure spaces: Vaults, Secure Files, Cryptography, Evidence Technician Office, Security Office, and when in use the Bulk Evidence Handling Laboratory. A cleaning schedule shall be established with the tenant. Unaccompanied cleaning will not be permitted in these spaces.

Sweeping, vacuuming or damp mopping will be required. Treatment of

sealed concrete floors, resilient flooring, vinyl composition tile or carpeting shall be in accordance with the manufacturer's directions.

Cleaning personnel will be admitted by an authorized occupant and will be under continuous observation. In some of the latter described areas, cleaning work may be done at night or during normal office hours. The contractor shall be aware of all responsibilities for cleaning of secure areas and include in his bid all costs in connection therewith.

29. Safety and Health Requirements.

A. The cleaning contractor is responsible for following all applicable federal, state and local safety, health and environmental regulations when performing work in a DEA facility.

B. The contractor is responsible for providing their employees with the necessary personal protective equipment (PPE) (e.g., eye protection, hand/skin protection, etc.) used during routine cleaning/maintenance operations.

C. The cleaning contractor is responsible for providing and ensuring that material safety data sheets (MSDS's) are readily available for all chemical products used in cleaning/maintaining the facility. This includes but is not limited to the following cleaning/maintenance chemicals: glass cleaners, rug cleaners/agents, floor strippers, wax products, surface cleaners, soap/disinfectants, stain removers, etc..

D. The cleaning/maintenance contractor shall dispose of all hazardous materials/wastes in accordance with approved federal, state and local regulations.

E. The contractor is responsible for providing adequate warning signs, barriers, cones and labels that direct DEA personnel away from any potential hazards created during cleaning/maintenance operations or hazards created by leaks, burst pipes, stopped sinks/toilets, etc.. This includes wet surfaces, slippery surfaces, egress control, etc..

30. Miscellaneous Requirements.

A. Lights shall be used only in areas where and at the time when work is actually being performed.

B. Mechanical equipment controls for heating, ventilation, and air conditioning systems will not be adjusted by the workers.

C. Water faucets or valves shall be turned off after the required

usage has been accomplished.

D. Windows shall be closed and lights and fans turned off when not in use.

E. Government phones shall not be used by the contractor.

F. Report fires, hazardous conditions, and items in need of repair to the designated office.

G. Turn in lost and found objects to the building Security Officer.

H. Assign sufficient day time staffing to be responsive to complaints related to cleaning.

I. Notify the security guard on duty and/or the building Security Officer or designee when an unauthorized or suspicious person is seen on the premises.

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ATTACHMENT 9
Project Program Documents

Project Program Documents will be furnished via CD Rom in Phase II.

SFO NO. 9CA01019

September 2000

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ATTACHMENT 10
Davis-Bacon Wage Rates

SFO NO. 9CA01019

(b) (7)(F)

September 2000

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GENERAL DECISION CA000001 08/11/00 CA1
General Decision Number CA000001

Superseded General Decision No. CA990001

State: California

Construction Type:

BUILDING
DREDGING
HEAVY
HIGHWAY
RESIDENTIAL

County(ies):

SAN DIEGO

BUILDING CONSTRUCTION PROJECTS; DREDGING PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); HIGHWAY CONSTRUCTION PROJECTS; RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories)

Modification Number	Publication Date
0	02/11/2000
1	04/14/2000
2	06/09/2000
3	06/16/2000
4	07/28/2000
5	08/11/2000

COUNTY(ies):

SAN DIEGO

ASBE0005B 01/01/2000

	Rates	Fringes
INSULATOR/ASBESTOS WORKER Includes the application of all insulating materials, protective coverings, coatings, and finishings to all types of mechanical systems	30.46	7.65

ASBE0005D 10/04/1999

	Rates	Fringes
ASBESTOS REMOVAL WORKER/ HAZARDOUS MATERIAL HANDLER Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials from mechanical systems, wheather they contain asbestos or not	19.70	4.87

BOIL0092F 10/01/1999

	Rates	Fringes
BOILERMAKER	29.06	9.81
TUBE WELDER	30.56	9.81

BRCA0004M 11/01/1999

	Rates	Fringes
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BRICKLAYER; MARBLE SETTER	23.50	6.45
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BRCA0018E 03/01/2000

	Rates	Fringes
TILE SETTER	21.00	2.78
MARBLE AND TILE FINISHER	13.23	2.78

BRCA0018F 06/01/1999

	Rates	Fringes
TERRAZZO WORKER	25.78	9.04
TERRAZZO FINISHER	19.83	9.04

CARP0002B 07/01/2000

	Rates	Fringes
DIVERS:		
Diver, wet	470.08 per day	6.38
Diver, stand-by	235.04 per day	6.38
Diver tender	227.04 per day	6.38

CARP0002L 09/01/1998

	Rates	Fringes
CARPENTER:		
Work meeting any of the following criteria:		
1) A residential wood frame project of any size;		
2) Interior tenant improvement work, regardless of the size of the project; and		
3) Any wood frame project of four stories or less	18.32	5.18

Heavy & highway work:		
Work on box culverts, catch basins and headwalls in residential projects	18.68	5.10
All other heavy & highway work	23.35	5.10
All other work	22.90	5.18
Millwright	23.85	5.10
Piledriver	23.48	5.10

CARP0002U 07/01/1999

	Rates	Fringes
DRYWALL INSTALLER/LATHER:		
Work on wood-framed single family homes and apartments	19.00	5.18
All other work	17.70	5.18
DRYWALL STOCKER/SCRAPPER	8.85	4.17

CARP0003H 07/01/1999

	Rates	Fringes
MODULAR FURNITURE INSTALLER	13.08	3.98
LOW WALL MODULAR TECHNICIAN	17.80	3.98
FULL WALL TECHNICIAN	21.88	3.98

* ELEC0569A 07/01/1999

	Rates	Fringes
ELECTRICIANS:		

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Work on street lighting; traffic signals; and underground systems and/or established easements outside of buildings:

Utility technician #1	16.38	3% + 2.99
Utility technician #2 (#4 on the California state wage determination)	10.56	3% + 2.49
Sound work:		
Sound technician	18.98	3% + 5.14
Telephone interconnect technician	15.99	3% + 5.14
Sound person	14.23	3% + 5.05
Tunnel work:		
Electrician	27.30	3% + 6.47
Cable splicer	28.25	3% + 6.47
Electrician	24.21	3% + 6.47
Cable splicer	24.96	3% + 6.47

All other electrical work on single family homes and apartments up to and including 3 stories 14.61 3% + 4.74

STREET LIGHT & TRAFFIC SIGNAL WORK:

UTILITY TECHNICIAN #1: Installation of street lights and traffic signals, including electrical circuitry, programmable controller, pedestal-mounted electrical meter enclosures and laying of pre-assembled cable in ducts. The layout of electrical systems and communication installation including proper position of trench depths, and radius at duct banks, location for manholes, street lights and traffic signals.

UTILITY TECHNICIAN #2 (utility technician #4 on the California state wage determination): Distribution of material at jobsite, installation of underground ducts for electrical, telephone, cable TV land communication systems. The setting, leveling, grounding and racking of precast manholes, handholes and transformer pads.

SOUND WORK SCOPE OF WORK: Assembly, installation, operation, service and maintenance of components or systems as used in closed circuit television, amplified master television distribution, CATV on private property, intercommunication, burglar alarm, fire alarm, life support and all security alarms, private and public telephone and related telephone interconnect, public address, paging, audio, language, electronic, background music system less than line voltage or any system acceptable for class two wiring for private, commercial, or industrial use furnished by leased wire, frequency modulation or other recording devices, electrical apparatus by means of which electricity is applied to the amplification, transmission, transference, recording or reproduction of voice, music, sound, impulses and video. Excluded from this Scope of Work - transmission, service and maintenance of background music. All of the above shall include the installation and transmission over fiber optics.

SOUND TECHNICIAN: Terminating, operating and performing final check-out

SOUND PERSON: Wire-pulling, splicing, assembling and installing devices

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ELEC1245A 06/01/1999

	Rates	Fringes
LINE CONSTRUCTION AND OUTSIDE UTILITY TRANSMISSION WORK:		
Line worker; Cable splicer	30.39	4.5% + 6.78
Powder worker	28.87	4.5% + 6.54
Ground person	19.75	4.5% + 6.50
Equipment specialist (operates crawler tractors, commercial motor vehicles, backhoes, trenchers, cranes (50 tons and below), and overhead and underground distribution line equipment)	25.83	4.5% + 6.50
Line worker, welding	31.91	4.5% + 7.02

SCOPE OF WORK:

All outside work on electrical transmission lines, switchyards and substations, and outside work in electrical utility distribution systems owned, maintained and operated by electrical utility companies, municipalities, or governmental agencies.

ELEV0018A 09/15/1999

	Rates	Fringes
ELEVATOR MECHANIC	31.915	6.985

FOOTNOTE:

Vacation Pay: 8% with 5 or more years of service, 6% for 6 months to 5 years service. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Friday after, and Christmas Day.

ENGI0012B 06/15/2000

	Rates	Fringes
POWER EQUIPMENT OPERATORS:		
GROUP 1	26.55	10.55
GROUP 2	27.33	10.55
GROUP 3	27.62	10.55
GROUP 4	28.51	10.55
GROUP 5	29.61	10.55
GROUP 6	28.73	10.55
GROUP 7	29.83	10.55
GROUP 8	28.84	10.55
GROUP 9	29.94	10.55
GROUP 10	28.96	10.55
GROUP 11	30.06	10.55
GROUP 12	29.13	10.55
GROUP 13	29.23	10.55
GROUP 14	29.26	10.55
GROUP 15	29.34	10.55
GROUP 16	29.46	10.55
GROUP 17	29.63	10.55
GROUP 18	29.73	10.55
GROUP 19	29.84	10.55
GROUP 20	29.96	10.55
GROUP 21	30.13	10.55
GROUP 22	30.23	10.55
GROUP 23	30.34	10.55
GROUP 24	30.46	10.55

CRANES, PILEDIVING & HOISTING:

GROUP 1	27.30	10.55
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GROUP 2	28.08	10.55
GROUP 3	28.37	10.55
GROUP 4	28.51	10.55
GROUP 5	28.73	10.55
GROUP 6	28.84	10.55
GROUP 7	28.96	10.55
GROUP 8	29.13	10.55
GROUP 9	29.30	10.55
GROUP 10	30.30	10.55
GROUP 11	31.30	10.55
GROUP 12	32.30	10.55
GROUP 13	33.30	10.55

POWER EQUIPMENT OPERATORS - TUNNEL:

GROUP 1	27.80	10.55
GROUP 2	28.58	10.55
GROUP 3	28.87	10.55
GROUP 4	29.01	10.55
GROUP 5	29.23	10.55
GROUP 6	29.34	10.55
GROUP 7	29.46	10.55

FOOTNOTES:

Premium pay of \$2.75 per hour shall be paid on all power equipment operator work within the boundaries of Camp Pendleton.

Workers required to suit up and work in a hazardous material environment: \$1.00 per hour additional.

Combination mixer and compressor operator on gunite work shall be classified as a concrete mobile mixer operator.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Barge, brake, compressor operator, ditch witch, with seat or similar type equipment, elevator operator - inside, engineer oiler, generator operator, generator, pump or compressor plant operator, pump operator, signal, switch

GROUP 2: Asphalt-rubber plant operator (nurse tank operator), concrete mixer operator - skip type, conveyor operator, fire person, hydrostatic pump operator, oil crusher (asphalt or concrete plant), skiploader (when wheel type up to 3/4 yd. without attachment), tar pot fire person, temporary heating plant operator, trenching machine oiler

GROUP 3: Asphalt-rubber blend operator, equipment greaser (rack), Ford Ferguson (with dragtype attachments), helicopter radio (ground), stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fire person, backhoe operator (mini-max or similar type), boring machine operator, box or mixer (asphalt or concrete), chip spreading machine operator, concrete cleaning decontamination machine operator, concrete pump operator (small

portable), drilling machine operator, small auger types (Texoma super economatic or similar types - Hughes 100 or 200 or similar types - drilling depth of 30' maximum), guard rail post driver operator, highline cableway signal, hydra-hammer-aero stomper, power concrete curing machine operator, power concrete saw operator, power-driven jumbo form setter operator, power sweeper operator, roller operator (compacting), screed operator (asphalt or concrete), trenching machine operator (up to 6 ft.)

GROUP 5: Equipment greaser (grease truck/multi-shift)

GROUP 6: Asphalt plant engineer, batch plant operator, bit sharpener, concrete joint machine operator (canal and similar

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type), concrete planer operator, deck engine operator, derrick (oilfield type), drilling machine operator, bucket or auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum), drilling machine operator (including water well drilling incidental to **building**, heavy or highway construction), equipment greaser (grease truck), hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type, Kalamazoo switch tamper, or similar type, machine tool operator, Maginnis internal full slab vibrator, mechanical berm, curb or gutter (concrete or asphalt), mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar), pavement breaker operator (truck mounted), road oil mixing machine operator, roller operator (asphalt or finish), rubber-tired earth-moving equipment (single engine, up to and including 25 yds. struck), self-propelled tar pipelining machine operator, skiploader operator (Crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.), slip form pump operator (power driven hydraulic lifting device for concrete forms), tractor operator - bulldozer, tamper-scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types), tugger hoist operator, ultra high pressure waterjet cutting tool system operator, vacuum blasting machine operator

GROUP 7: Asphalt or concrete spreading operator (tamping or finishing), asphalt paving machine operator (Barber-Greene or similar type), asphalt-rubber distributor operator, backhoe operator (up to and including 3/4 yd.), small Ford, Case or similar, cast-in-place pipe laying machine operator, combination mixer and compressor operator (gunite work), compactor operator (self-propelled), concrete mixer operator (paving), crushing plant operator, drill doctor, drilling machine operator, bucket or auger types (Calweld 150 bucket or similar types - Watson 1500, 2000, 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum), elevating grader operator, grade checker, gradall operator, grouting machine operator, heavy-duty repair person, heavy equipment robotics operator, Kalamazoo balliste regulator or similar type, Kolman belt loader and similar type, Le Tourneau blob compactor or similar type, loader operator (Athey, Euclid, Sierra and similar types), pneumatic concrete placing machine operator (Hackley-Presswell or similar type), pumpcrete gun operator, rotary drill operator (excluding caisson type), rubber-tired

earth-moving equipment operator (single engine, Caterpillar, Euclid, Athey wagon and similar types with any and all attachments over 25 yds. up to and including 50 cu. yds. struck), rubber-tired earth-moving equipment operator (multiple engine up to and including 25 yds. struck), rubber-tired scraper operator (self-loading paddle wheel type - John Deere, 1040 and similar single unit), self-propelled curb and gutter machine operator, skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.), soil remediation plant operator, surface heaters and planer operator, tractor compressor drill combination operator, tractor operator (any type larger than D-5 - 100 flywheel h.p. and over, or similar - bulldozer, tamper, scraper and push tractor, single engine), tractor operator (boom attachments), traveling pipe wrapping, cleaning and bending machine operator, trenching machine operator (over 6 ft. depth capacity, manufacturer's rating), ultra high pressure waterjet cutting tool system mechanic

GROUP 8: Heavy-duty repair person (multi-shift)

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GROUP 9: Drilling machine operator, bucket or auger types (Calweld 200 B bucket or similar types - Watson 3000 or 5000 auger or similar types - Texoma 900 auger or similar types - drilling depth of 105' maximum), dual drum mixer, dynamic compactor LDC350 (or similar types), heavy-duty repair-welder combination, monorail locomotive operator (diesel, gas or electric), motor patrol - blade operator (single-engine), multiple-engine tractor operator (Euclid and similar type - except Quad 9 cat.), pre-stressed wrapping machine operator, rubber-tired earth-moving equipment operator (single-engine, over 50 yds. struck), rubber-tired earth-moving equipment operator (multiple-engine, Euclid, caterpillar and similar over 25 yds. and up to 50 yds.), tower crane repair person, tractor loader operator (Crawler and wheel type over 6-1/2 yds.), Woods mixer operator (and similar Pugmill equipment)

GROUP 10: Heavy-duty repair-welder combination (multi-shift)

GROUP 11: Auto grader operator, automatic slip form operator, drilling machine operator, bucket or auger types (Calweld, auger 200 CA or similar types - Watson auger 6000 or similar types - drilling depth of 175' maximum), hoe ram or similar with compressor, mass excavator operator (less than 750 cu. yds.), mechanical finishing machine operator, mobile form traveler operator, motor patrol operator (multi-engine), pipe mobile machine operator, rubber-tired earth-moving equipment operator (multiple-engine, Euclid, caterpillar and similar type, over 50 cu. yds. struck), rubber-tired self-loading scraper operator (paddle-wheel auger type self-loading - two (2) or more units)

GROUP 12: Rubber-tired earth-moving equipment operator operating equipment with push-pull system, (single-engine, up to and including 25 yds. struck)

GROUP 13: Canal liner operator, canal trimmer operator, remote-control earth-moving equipment operator (operating a second piece of equipment: \$1.00 per hour additional), wheel excavator operator (over 750 cu. yds.)

GROUP 14: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, caterpillar, Euclid, Athey wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck), rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple-engine - up to and including 25 yds. struck)

GROUP 15: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single-engine, over 50 yds. struck), rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple-engine, Euclid, caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple-engine, Euclid, caterpillar and similar, over 50 cu. yds. struck), tandem tractor operator (operating crawler-type tractors in tandem - Quad 9 and similar type)

GROUP 17: Rubber-tired earth-moving equipment operator operating in tandem (scrapers, belly dumps and similar) in any combination, excluding compaction units - single engine up

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to and including 25 yds. struck)

GROUP 18: Rotex concrete belt operator (or similar type), rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single-engine, caterpillar, Euclid, Athey wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck), rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple-engine, up to and including 25 yds. struck)

GROUP 19: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single-engine, over 50 yds. struck), rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple-engine, Euclid, caterpillar and similar, over 50 cu. yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, up to and including 25 yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single-engine, caterpillar, Euclid, Athey wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck), rubber-tired earth-moving equipment operator, operating with the tandem push-pull system (multiple-engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single-engine, over 50 yds. struck), rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 24: Concrete pump operator - truck mounted, rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple-engine, Euclid, caterpillar and similar type, over 50 cu. yds. struck)

POWER EQUIPMENT OPERATORS - CRANES, PILEDRIVING AND HOISTING
EQUIPMENT CLASSIFICATIONS

GROUP 1: Engineer oiler, fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator, Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator, helicopter hoist operator

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GROUP 5: Stinger crane (Austin-Western or similar type), tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator, Cretor crane operator, hoist operator (Chicago boom and similar type), lift mobile operator, lift slab machine operator (Vagtborg and similar types), material hoist operator, polar gantry crane operator, shovel, backhoe, dragline, clamshell operator (over 3/4 yd. and up to 5 cu. yds. mrc), tugger hoist operator (2 drum)

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. mrc), tower crane repair, tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton capacity), crawler transporter operator, derrick barge operator (up to and including 25 ton capacity), hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity), shovel, backhoe, dragline, clamshell operator (over 7 cu. yds. mrc)

GROUP 9: Crane operator (over 25 tons and up to and including 50 tons mrc), derrick barge operator (over 25 tons up to and including 50 tons mrc), highline cableway operator, hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 50 tons mrc), K-crane operator, polar crane operator

GROUP 10: Crane operator (over 50 tons and up to and including 100 tons mrc), derrick barge operator (over 50 tons up to and including 100 tons mrc), hoist operator, stiff legs, Guy derrick or similar type (over 50 tons up to and including 100 tons mrc), mobile tower crane operator (over 50 tons, up to and including 100 ton M.R.C.), tower crane operator and tower gantry

GROUP 11: Crane operator (over 100 tons and up to and including 200 tons mrc), derrick barge operator (over 100 tons up to and including 200 tons mrc), hoist operator, stiff legs, Guy derrick or similar type (over 100 tons up to and including 200 tons mrc), mobile tower crane operator (over 100 tons up to and including 200 tons mrc)

GROUP 12: Crane operator (over 200 tons up to and including 300 tons mrc), derrick barge operator (over 200 tons up to and including 300 tons mrc), hoist operator, stiff legs, Guy derrick or similar type (over 200 tons, up to and including 300 tons mrc), mobile tower crane operator (over 200 tons, up to and including 300 tons mrc)

GROUP 13: Crane operator (over 300 tons), derrick barge operator (over 300 tons), helicopter pilot, hoist operator, stiff legs, Guy derrick or similar type (over 300 tons), mobile tower crane operator (over 300 tons)

POWER EQUIPMENT OPERATORS - TUNNEL CLASSIFICATIONS

GROUP 1: Skiploader (wheel type up to 3/4 yd. without attachment)

GROUP 2: Power-driven jumbo form setter operator

GROUP 3: Dinkey locomotive or motorperson (up to and including 10 tons)

GROUP 4: Bit sharpener; Equipment greaser (grease truck); Slip

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form pump operator (power-driven hydraulic lifting device for concrete forms; Tugger hoist operator (1 drum); Tunnel locomotive operator (over 10 and up to and including 30 tons)

GROUP 5: Backhoe operator (up to and including 3/4 yd.); Small Ford, Case or similar; Drill doctor; Grouting machine operator; Heading shield operator; Heavy-duty repair person; Loader operator (Athey, Euclid, Sierra and similar types); Mucking machine operator (1/4 yd., rubber-tired, rail or track type); Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel); Pumpcrete gun

operator; Tractor compressor drill combination operator; Tugger hoist operator (2 drum); Tunnel locomotive operator (over 30 tons)

GROUP 6: Heavy-duty repair/welder combination

GROUP 7: Tunnel mole boring machine operator

ENGI0012D 08/01/1999

	Rates	Fringes
POWER EQUIPMENT OPERATORS:		
DREDGING:		
Lever person	31.85	10.35
Dozer operator	28.38	10.35
Welder; Deckmate	28.27	10.35
Winch operator (stern winch on dredge)	27.72	10.35
Fire person - oiler; Leveehand; Deckhand; Barge person	27.18	10.35
Barge mate	27.79	10.35

IRON0001F 07/01/1999

	Rates	Fringes
IRONWORKERS:		
Fence erector	23.29	13.83
Ornamental, reinforcing and structural	24.18	13.83

FOOTNOTE:

Work at San Clemente Island: \$3.00 per hour additional.

LABO0089A 06/16/1999

	Rates	Fringes
LABORERS:		
Work inside the building line on projects meeting any of the following criteria:		
1) a residential wood frame project of any size;		
2) work classified as Type III, Type IV or Type V construction;		
3) interior tenant improvement work, regardless of the size of the project; and		
4) any wood frame project four stories or less	14.75	5.78

LESSOR

GOVERNMENT

All other work inside the **building**
line 16.85 7.18

Work inside the property line
but outside the **building** line,
on projects meeting any of
the following criteria:

- 1) a residential wood frame
project of any size;
- 2) work classified as
Type III, Type IV or
Type V construction; and
- 3) any wood frame project four
stories or less 16.13 5.91

All other work outside the **building**
line:

GROUP 1	18.91	7.18
GROUP 2	19.21	7.18
GROUP 3	19.41	7.18
GUNITE WORK:		
GROUP 1	18.91	7.18
GROUP 2	19.21	7.18
GROUP 3	19.41	7.18
TUNNEL WORK:		
GROUP 1	19.21	7.18
GROUP 2	19.41	7.18
GROUP 3	19.66	7.18
FINAL CLEAN-UP AND LANDSCAPE MAINTENANCE WORK	9.455	5.18

LABORER CLASSIFICATIONS

GROUP 1: Laborer (general construction); Asphalt ironer -
spreader; Boring machine tender; Carpenter tender; Caulker;
Cesspool digger and installer; Chucktender (except tunnels);
Concrete curer (impervious membrane and form oiler); Concrete
water curing (excluding use of water trucks); Cutting torch
operator (demolition); Driller's tender (caisson) including
bellows; Dri-pak-it machine, concrete cutting torch; Dry
packing of concrete, plugging, filling of shee bolt holes; Fence
erector; Fine grader on highways, streets and airport paving
(sewer and drainage lines when employed); Flag person; Form
blower; Gas and oil pipeline laborer; Guinea chaser; Housemover;
Jet; Landscape gardener and nursery; Packing rod steel and pans;
Pipelayer's backup (coating, grouting, making of joints, sealing,
caulking, diapering and including rubber gasket joints, pointing
and any and all other service railroad work); Laborer; Rigging
and signaling; Riprap stonepaver; Sandblaster (pot tender);
Scaler; Septic tank digger and installer (lead); Tank scaler and
cleaner; Tool shed checker; Window cleaner

GROUP 2: Buggymobile; Cement dumper (on 1 yd. or larger
mixers and handling bulk cement); Concrete saw (excluding tractor
type), roto-scraper, chipping hammer, concrete core cutter,
concrete grinder and sander; Cribber - shorer, lagging and trench

bracing, hand-guided lagging hammer; Driller - all power drills,
including jackhammer, whether Core, Diamond, Wagon, Track,
multiple unit, and all types of mechanical drills without regard
to the form of motive power; Driller (all other where drilling is
for use of explosives); Gas and oil pipeline wrapper (pot tender
and form); Gas and oil pipeline wrapper (6-inch pipe and over);

LESSOR *JS*
GOVERNMENT *md*

Operator and tender of pneumatic, gas and electric tools, concrete pumps, vibrating machines, multi-plate impact wrench and similar mechanical tools not separately classified herein; Pipelayer (excludes all pressurized and vacuum piping) (performing all services outside the **building** line in the laying and installation of pipe from the point of receiving pipe until completion of the operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid, gas, air or other products whatsoever and without regard to the nature of material from which the tubular material is fabricated); Powder blasters' tender; Prefabricated manhole installer; Rock slinger; Sandblaster, waterblaster & nozzle operator); Scaler (using bos'n chair, safety belt); Steel headerboard; Tree climber, using mechanical tools; Welding in connection with laborer's work

GROUP 3: Asphalt raker; Layton box spreader (or similar type)

TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Bull gang, mucker, track; Chucktender, cabletender; Concrete crew (includes rodder and spreader); Dump; Grout crew; Tender for steel form raisers and setters; Mucker - tunnel (hand or machine); Nipper; Swamper (brake and switch on tunnel work); Vibrator, jackhammer, pneumatic tools (except driller) multi-plate impact wrench

GROUP 2: Blaster, driller, powder; Cherry picker; Grout gun; Kemper and other pneumatic concrete placer operator; Miner in short dry tunnels under streets, highways and similar places; Miner - tunnel (hand or machine); Powder (tunnel work); Steel form raiser and setter; Timber, retimber wood or steel

GROUP 3: Powder - primer house (licensed) on tunnel work; Shaft and raise miner; Shifter; Blaster (licensed) all work of loading holes, placing & blasting all powder & explosives of whatever type regardless of method used for such loading and placing

LABO0089B 11/01/1998

	Rates	Fringes
BRICK TENDER	17.58	7.13

FOOTNOTES:

Work on refractory stack work in excess of 100 ft. in height: fifty cents (\$0.50) per hour additional.

Work on refractory work where extreme heat prevents continuous work: fifty (\$0.50) per hour additional.

Work with carbon brick, acid brick or phenolic mortar: fifty (\$0.50) per hour additional.

Work on a swinging scaffold above fifty ft.: thirty-five cents (\$0.35) per hour additional.

LABO0882A 09/01/1998

	Rates	Fringes
ASBESTOS REMOVAL LABORER	10.37	3.76

SCOPE OF WORK: includes site mobilization, initial site clean-up, site preparation, removal of asbestos-containing material and

LESSOR JB
GOVERNMENT md

toxic waste (including lead abatement and any other toxic materials), encapsulation, enclosure and disposal of asbestos-containing materials and toxic waste (including lead abatement and any other toxic materials) by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers, and assembly of decontamination stations.

LABO1184A 07/01/1999

	Rates	Fringes
LABORERS - STRIPING:		
GROUP 1	18.61	7.90
GROUP 2	19.01	7.90
GROUP 3	20.58	7.90
GROUP 4	21.58	7.90

LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.) and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding) as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all related machinery and equipment

* PAIN0036D 08/01/2000

	Rates	Fringes
BUILDING AND HEAVY CONSTRUCTION:		
PAINTER (includes lead abatement) 24.02		5.52
RESIDENTIAL CONSTRUCTION		
PAINTER (includes lead abatement) 18.40		5.52

PAIN0036K 10/01/1999

	Rates	Fringes
DRYWALL FINISHER:		
Work on wood frame/structured construction 18.00		3.71

LESSOR LB
GOVERNMENT MD

All other work	19.40	6.18
<hr/>		
PAIN1399A 07/01/1999		
GLAZIER	Rates 24.55	Fringes 7.99
<hr/>		
PAIN1399C 07/01/2000		
SOFT FLOOR LAYER	Rates 17.63	Fringes 5.94
<hr/>		
PLAS0200E 08/06/1997		
PLASTERER	Rates 23.38	Fringes 4.04
<hr/>		
PLAS0500A 07/01/1999		
CEMENT MASON:	Rates	Fringes
Work meeting any of the following criteria: -		
1) a residential wood frame project of any size;		
2) work classified as Type III, Type IV or Type V construction;		
3) interior tenant improvement work, regardless of the size of the project; and		
4) any wood frame project of 4 stories or less		
	18.14	4.80
All other building construction	19.79	4.80
Heavy and highway construction	22.22	5.28
<hr/>		
PLUM0016F 07/01/1999		
PLUMBER; PIPEFITTER; STEAMFITTER; AIR CONDITIONING & REFRIGERATION:	Rates	Fringes
Work on residential stick construction not to exceed 4 stories in height		
	20.41	3.35
Work on strip malls, light commercial, tenant improvement and remodel work		
	20.36	8.35
Work on new additions and remodeling of single family homes, bars, restaurants, stores and commercial buildings, not to exceed 5,000 sq. ft. of floor space		
	24.69	11.41
All other work:		
Camp Pendleton	27.78	11.63
Remainder of County	25.53	11.63
<hr/>		
LANDSCAPE AND IRRIGATION WORK	19.98	11.18
<hr/>		
SEWER AND STORM DRAIN WORK	17.29	10.73
<hr/>		
PLUM0345A 07/01/1999		
LANDSCAPE & IRRIGATION FITTER	Rates 24.23	Fringes 6.80
<hr/>		
ROOF0045B 01/01/2000		

LESSOR

GOVERNMENT

JB
md

ROOFER	Rates 20.20	Fringes 3.88
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SFCA0669A 04/01/1999

	Rates	Fringes
SPRINKLER FITTER (FIRE):		
Work on one or two family dwellings;		
all multiple family dwelling units		
which are permitted to have a single		
exterior up to and incl. 4 stories;		
townhouses with units stacked vertic-		
ally up to and including 4 stories;		
and group residential care facilities		
and protective care homes (sheltered		
housing), not to include nursing homes		
or ambulatory care facilities	17.25	1.69
All other work	23.00	6.40

SHEE0206A 07/01/1998

	Rates	Fringes
SHEET METAL WORKER:		
Camp Pendleton	26.19	8.80
Remainder of County	24.19	8.80

TEAM0036A 06/16/1999

	Rates	Fringes
TRUCK DRIVERS:		
GROUP 1	9.31	9.72
GROUP 1-A	18.60	9.72
GROUP 2	18.90	9.72
GROUP 3	19.10	9.72
GROUP 4	19.30	9.72
GROUP 5	19.50	9.72
GROUP 6	20.00	9.72
GROUP 7	21.50	9.72

FOOTNOTE:

HAZMAT PAY:

Work on a hazmat job, where hazmat certification is required, shall be paid, in addition to the classification working in, as follows: Levels A, B and C - +\$1.00 per hour. Workers shall be paid hazmat pay in increments of four (4) and eight (8) hours.

TRUCK DRIVER CLASSIFICATIONS

GROUP 1: Swamper, fuel person (fueler without trucks)

GROUP 1-A: Motorized traffic control, pickup truck on jobsite

GROUP 2: Two-axle dump trucks, two-axle flat bed, bunker person, concrete pumping truck, industrial lift truck, forklift under 15,000 lbs.

GROUP 3: Two-axle water truck, three-axle dump truck, three-axle flat bed, erosion control nozzle person, dumpcrete truck less than 6 1/2 yds., forklift 15,000 lbs. and over, Prell truck, pipeline work truck driver; road oil spreader, cement distributor or slurry driver; boot person, Ross carrier

GROUP 4: Off-road dump trucks under 35 tons mfg rated

LESSOR

GOVERNMENT

capacity, four axles but less than seven axles, low-bed truck and trailer, transit mix trucks under 8 yds., three axle water trucks, erosion control drive, grout mixer truck, dumpcrete, 6-1/2 yds. and over, dumpster trucks; DW 10's, 20's and over; fuel truck and dynamite, truck greaser, truck mounted mobile sweeper; winch truck, two axles

GROUP 5: Off-road dump trucks 35 tons and over mfg rated capacity, 7 axles or more, transit mix trucks 8 yds. and over, A-frame trucks or Swedish crane, tire person, welder, winch truck 3 axles or more

GROUP 6: Off-road special equipment (including but not limited to water pull tankers, Athey wagons, DJB, B70 Euclids or like equipment)

GROUP 7: Repair person

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.
=====

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(v)).

In the listing above, the "SU" designation means that rates listed under that identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U. S. Department of Labor
200 Constitution Avenue, N. W.
Washington, D. C. 20210

LESSOR

GOVERNMENT

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request

review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N. W.
Washington, D. C. 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U. S. Department of Labor
200 Constitution Avenue, N. W.
Washington, D. C. 20210

4.) All decisions by the Administrative Review Board are final.
END OF GENERAL DECISION

LESSOR LB
GOVERNMENT md



General Services Administration, Region 9
Desert Service Center (9PDE)
880 Front Street, Suite.4236
San Diego, CA 92101-8843



October 19, 2000

**AMENDMENT NO. 1
SOLICITATION FOR OFFERS 9CA01019**

This represents Amendment No. 1 to Solicitation For Offers 9CA01019. Attachment 9, "Project Program Documents," and Attachment 12, "Supplemental Information of the Project Program Documents " are deleted in their entirety and the following substituted therefore.

- "1) Attachments 9 and 12 are replaced by CD-ROM dated 17 Oct 2000 containing the following documents:
- 2) Technical Amendment No. 1, dated October 2000, consisting of one (1) CD-ROM containing replacement specifications, replacement drawings, and additional supplemental Project Program Document information in electronic format.
- 3) Cover Letter for Technical Amendment No. 1 dated October 2000, consisting of two (2) pages. This document is a printed copy of a portion of the amendment contained on the CD-ROM referenced above.
- 4) A bound book titled "Supplemental Information, Project Program Documents" and dated 9 October 2000 containing printed copies of:
 - a) Smith Group memorandum titled Supplemental Information, Project Program Documents" and dated 12 September 2000 (SFO Attachment No. 12) and the attachments referenced therein.
 - b) Smith Group memorandum titled Supplemental Information, Project Program Documents" and dated 9 October 2000 (a portion of Technical Amendment No. 1. Above.

This document collects in one bound volume the Supplemental Information previously distributed with the Solicitation For Offers (SFO Attachment No. 12) and the Supplemental Information distributed as part of Technical Amendment No. 1 above.

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MD



General Services Administration, Region 9
Desert Service Center (9PDE)
880 Front Street, Suite 4236
San Diego, CA 92101-8843



AMENDMENT NO. 1
SOLICITATION FOR OFFERS 9CA01019
Page 2

- 4) Technical Amendment No. 2, dated October 2000, consisting of the following printed documents:
- a) Cover Letter for Technical Amendment No. 2 dated October 2000, consisting of one (1) page.
 - b) Smith Group Memorandum titled "Clarification to DEA Regional Lab Drawings" and dated 17 October 2000. Technical Amendment No. 2 is distributed in printed form only."

ACKNOWLEDGE RECEIPT OF AMENDMENT NO. 1

WESTERN DEVCON INC.

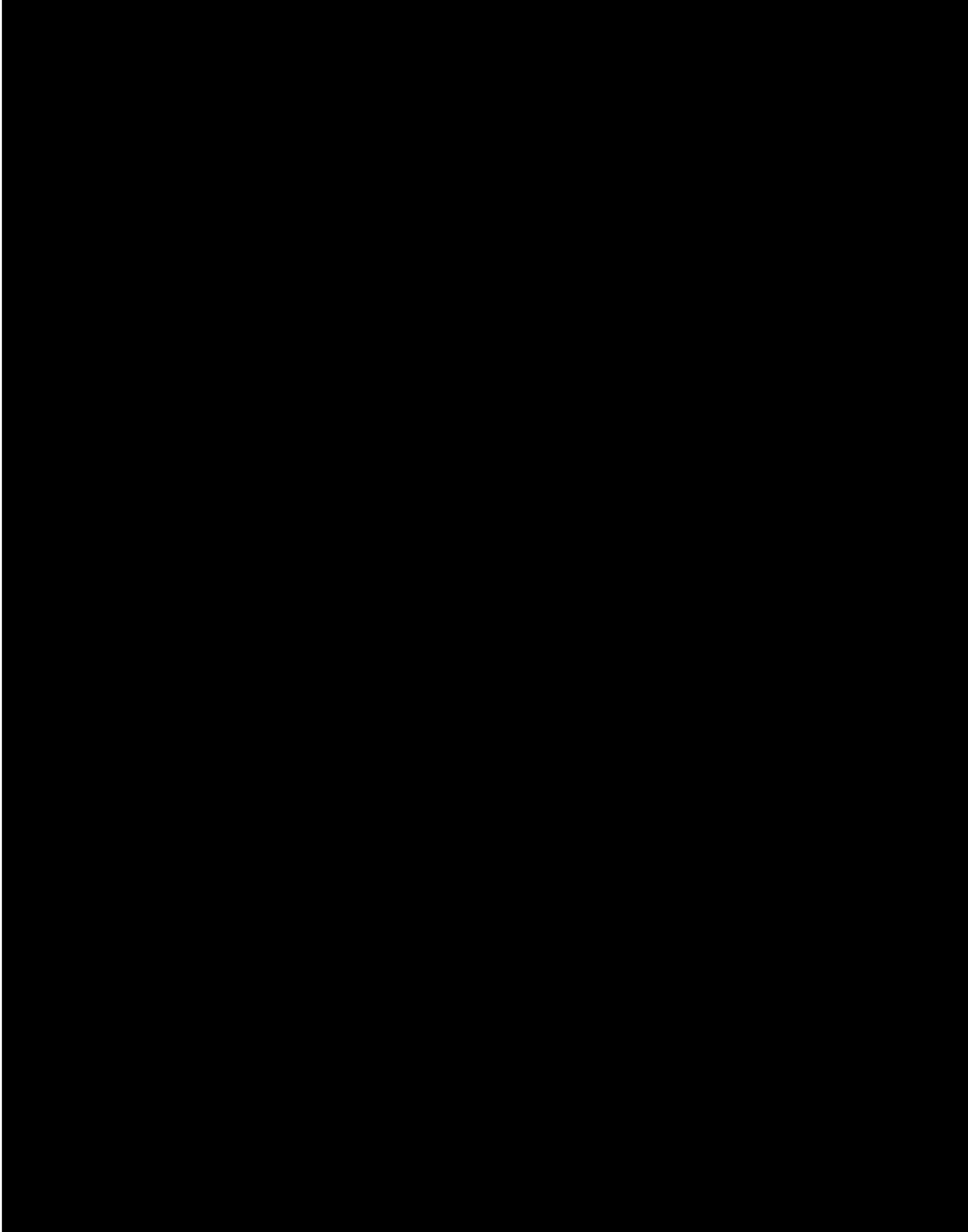
(b) (6)

OFFEROR

11-4-2000
DATE

(b) (6)

3-1-2001



GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE
SUPPLEMENTAL LEASE AGREEMENT

SUPPLEMENTAL
AGREEMENT

1

DATE

July 15, 2001

TO LEASE NO. GS-09B-01022

ADDRESS OF PREMISES 2815 Scott Street,
Vista, CA 92083

THIS AGREEMENT, made and entered into this date by and between **WESTERN DEVCON, INC.**

whose address is 10525 Vista Sorrento Parkway, #110
San Diego, CA 92121

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, effective March 13, 2002 to incorporate via LUMP SUM Change Orders 1 through 28. Paragraph 25 is deleted in its entirety and the following substituted therefore. Paragraph 26 and 27 are added.

All other terms and conditions of the lease shall remain in force and effect.

CONTINUE ON SHEETS NO. 1 AND 2 OF THIS SLA

IN WITNESS WHEREOF the parties subscribed their names as of the above date.

(b) (6)

(Signature)

Sec & Treas.

(Title)

IN THE (b) (6)

(Signature)

10525 VISTA SORRENTO PKWY., # 110
SAN DIEGO, CA 92121

(Address)

UNITED STATES OF AMERICA

BY (b) (6)

Contracting Officer
GSA, PBS, RED

Sheet No. 1 Attached to Supplemental Lease Agreement No. 1 Of Lease No. GS-09B-01022

"25. At the request of the Government, the Lessor shall provide all labor, materials and equipment to install the above standard items in accordance with the Special Space Requirements attached to Solicitation For Offers No. 9CA01019. The Lump Sum costs as negotiated are listed below:

Interior Construction

(b) (4), (b) (7)(F)

Mechanical

(b) (4)

Electrical

(b) (4)

Equipment

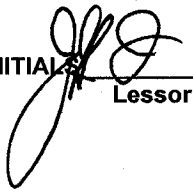
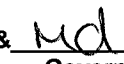
(b) (4)

Site Work

(b) (4)

The Government shall make a partial lump sum payment not to exceed 75% of the total LUMP SUM cost per item upon delivery and installation of the equipment with the remaining 25% LUMP SUM payment upon testing and acceptance by the Government. For all other items and outstanding costs, the Government shall make a lump sum payment after completion of the work and acceptance by the Government. Payment will be due only for items which are: (a) listed in this paragraph, (b) identified in Scope of Work of each Change Order and (c) shown on the Government's layout or requested in writing by the GSA Contracting Officer. Title to items for which the Government makes a lump sum payment shall vest in the Government. These items can be removed by the Government at any time. Lessor waives any restoration in connection with these items. Unless the Government has removed the item from the premises, Lessor shall remain responsible for maintenance, repair and replacement of all items provided by the Lessor under this lease. If, after the lease term and any extended, renewal or succeeding lease term, the Government elects to abandon any items in place, title shall pass to the Lessor."

"26. The (b) (7)(F) shall enter a separate operation and maintenance agreement with the Security Vendor and the (b) (7)(F) shall be responsible for all costs associated with the maintenance and operation of the building security system including the maintenance and operation of the (b) (7)(F). The Lessor shall be responsible for all costs associated with the operation and maintenance of the perimeter fence."

INITIALS  & 
Lessor Government

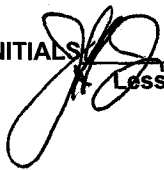
Sheet No. 2 Attached to Supplemental Lease Agreement No. 1 Of Lease No. GS-09B-01022

"27. Change Orders 1 through 28 - The Lessor shall provide and install the following LUMP SUM items (Installation shall include all labor, materials, equipment, design, professional fees, inspection fees, utilities, construction drawings including, without limitation, plans and specifications, construction cost and services and all other similar cost and expenses associated with these items):

(b) (4)



The Government shall make a partial lump sum payment not to exceed 75% of the total LUMP SUM cost per item upon delivery and installation of the equipment (Change Order), with the remaining 25% LUMP SUM payment upon testing and acceptance by the Government. For all other items and outstanding costs, the Government shall make a lump sum payment after completion of the work and acceptance by the Government. Payment will be due only for items which are: (a) listed in this paragraph, (b) identified in Scope of Work of each Change Order and (c) shown on the Government's layout or requested in writing by the GSA Contracting Officer. Title to items for which the Government makes a lump sum payment shall vest in the Government. These items can be removed by the Government at any time. Lessor waives any restoration in connection with these items. Unless the Government has removed the item from the premises, Lessor shall remain responsible for maintenance, repair and replacement of all items provided by the Lessor under this lease. If, after the lease term and any extended, renewal or succeeding lease term, the Government elects to abandon any items in place, title shall pass to the Lessor."

INITIALS  & Ma
Lessor Government

CONDITION SURVEY REPORT

Check one: ☐ Draft ☐ INITIAL ☐ ☒ FINAL

BUILDING NAME AND ADDRESS

2815 Scott Street
Vista, CA 92083

LESSOR'S NAME AND ADDRESS

WESTERN DEVCON, INC.
10525 Vista Sorrento Parkway, #110
San Diego, CA 92121

ROOM NUMBERS OR OTHER IDENTIFICATION

PARTIAL PAYMENT

LEASE NUMBER

LCA01022

SUGGESTED ITEMS (Incomplete)

1. BUILDING EXTERIOR
2. BUILDING ENTRANCES
3. CEILING
 - a. MATERIAL
 - b. PAINT
4. CORRIDORS
5. DOORS
 - a. MATERIAL
 - b. LOCKS
 - c. TRANSOMS
6. ELECTRICAL SYSTEM
 - a. LIGHT FIXTURES (NUMBER AND TYPE)
 - b. SWITCHES
 - c. OUTLETS
7. ELEVATORS (NUMBER AND TYPE)
8. FIRE ESCAPES
9. FIRE PROTECTION EQUIPMENT
 - a. FIRE EXTINGUISHERS (TYPE)
 - b. HOSE RACKS AND/OR REELS
 - c. FIRE ALARM SYSTEM (TYPE)
 - d. SPRINKLERS
10. FLOORS
 - a. MATERIAL
 - b. COVERING
11. HEATING AND AIR CONDITIONING SYSTEMS
 - a. HEATING PLANT
 - b. RADIATORS
 - c. SPACE HEATERS
 - d. AIR DUCTS AND OUTLETS
 - e. FANS
12. LAVATORIES (OFFICE)
- REST ROOM FACILITIES
 - a. LAVATORIES
 - b. WATER CLOSETS
 - c. URINALS
 - d. MIRRORS
 - e. WASTE RECEPTACLES
 - f. TOWEL DISPENSERS
 - g. TOILET PAPER DISPENSERS
 - h. SANITARY PAD DISPENSERS
14. SKYLIGHTS
15. STAIRS
16. VENTILATORS
17. WALLS
 - a. MATERIAL
 - b. PAINT
18. WINDOWS
 - a. FRAME
 - b. SASH
 - c. VENETIAN BLINDS
 - d. ROLLER SHADES
 - e. SCREENS
 - f. AWNINGS

NARRATIVE REPORT

REPORT ON ALL PERINENT ITEMS. COMMENTING AS TO THEIR GENERAL CONDITION AND APPEARANCE. TYPE OF CONSTRUCTION, CONDITION OF PAINT OR OTHER FINISH, ETC. USE REVERSE OF THIS FORM IF MORE SPACE IS NEEDED.

In accordance with Paragraph 25 of the Lease Contract, the Government has elected to make LUMP SUM partial payment of the following work completed and accepted by the Government's COTR Representative.

ITEM

(b) (4)

PARTIAL PAYMENT

LESSOR PROVIDED DETAILED DESCRIPTION OF ITEMS ACCEPTED ATTACHED TO THIS ACCEPTANCE.

Government team accepts & agrees to pay 75% of total cost of vault expansion. All other items listed are not ready for acceptance.

We, the undersigned, do hereby certify that this report represents our opinion of the above described premises as of

(b) (6)

7/10/02

SIGNATURE AND TITLE
JOHN ANDALON, COTR

(b) (6)

7/10/02

SIGNATURE AND TITLE

(b) (6)

SIGNATURE OF LESSOR (If not obtained, explain on reverse)

WESTERN DEVCON INC

**GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE
SUPPLEMENTAL LEASE AGREEMENT**

SUPPLEMENTAL
AGREEMENT

2

DATE

8/6/02

TO LEASE NO. GS-09B-01022

ADDRESS OF PREMISES 2815 Scott Street,
Vista, CA 92083

THIS AGREEMENT, made and entered into this date by and between **WESTERN DEVCON, INC.**

whose address is 10525 Vista Sorrento Parkway, #110
San Diego, CA 92121

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, effective March 13, 2002 to increase the annual rent to reflect the increase in operating tax expenses associated with Change Order 3 and 4 of SLA No. 1. Paragraphs 3 and 18 are deleted in their entirety and the following substituted therefore. Paragraph 26 and 27 are added.

"3. The Government shall pay the Lessor annual rent as follows:

For months 1 through 2 - \$0.00 per month paid in arrears.

For months 3 through 216 - the Government shall pay the Lessor annual rent of \$2,565,240.60 at the rate of \$213,770.05 (\$47.40 prsf) per month paid in arrears. Rent checks shall be payable to Western Devcon, Inc. and will be sent to:

Western Devcon, Inc.
10525 Vista Sorrento Parkway, #110
San Diego, CA 92121

Prior to final occupancy and commencement of rent, Lessor will sign up for Electronic Funds Deposit."

"18. Pursuant to Paragraph 5 of Solicitation For Offers, Pro Forma Lease No. 9CA01019 entitled "Operating Costs (JUN 1995)", the base for the operating costs adjustment is established at \$(b) (4) per rentable square foot of office space per annum."

All other terms and conditions of the lease shall remain in force and effect.

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

(b) (6)

(Signature)

Sec of Treas

(Title)

10525 VISTA SORRENTO PKWY., # 110
SAN DIEGO, CA 92121

(Address)

(b) (6)

(Signature)

UNITED STATES OF AMERICA

BY

(b) (6)

Contracting Officer

GSA, PBS, RED

	A	B
(b) (4)		
48		

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE
SUPPLEMENTAL LEASE AGREEMENT

SUPPLEMENTAL AGREEMENT
NO. 3
(Revised 1-8-03)

DATE
JAN 10 2003

TO the LEASE NO.
GS-09B-01022

ADDRESS OF PREMISES

2815 Scott Street
Vista, CA 92083

THIS AGREEMENT, made and entered into this date by and between

WESTERN DEVCON, INC.

whose address is 10525 Vista Sorrento Parkway #110
San Diego, CA 92121

Hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease.

NOW THEREFORE, these parties for the consideration hereinafter mentioned covenant and agree that the said Lease is amended, effective upon execution by the Government, to establish beneficial occupancy of the space and to incorporate change orders.

Paragraph 9 is deleted and replaced with the following. Paragraph 28 is added to the Lease.

"9. TO HAVE AND TO HOLD the said premises with their appurtenances for the term beginning on November 1, 2002 through October 31, 2020.

(Page 1 of 2)

All other terms and conditions of the lease shall remain in force and effect.

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

(b) (6)

PRESIDENT

(Title)

IN PRE

(b) (6)

10525 VISTA SORRENTO PARKWAY, SUITE 110
SAN DIEGO, CA 92121

(Address)

(b) (6)

UNITED STATES OF AMERICA - GENERAL SERVICES ADMINISTRATION

BY

TINA LOCKWOOD GROVER

(Signature)

Contracting Officer



(Official Title)

"28. Change Orders 29 through 59 - The Lessor shall provide and install the following LUMP SUM items (Installation shall include all labor, materials, equipment, design, professional fees, inspection fees, utilities, construction drawings including without limitation, plans and specifications, construction cost and services and all other similar cost and expenses associated with these items):

(b) (4)



The Government shall make a lump sum payment after completion of the work and acceptance by the Government. Payment will be due only for items which are: (a) listed in this paragraph, (b) identified in Scope of Work of each Change Order, and (c) shown on the Government's layout or requested in writing by the GSA Contracting Officer. Title to items for which the Government makes a lump sum payment shall vest in the Government. These items can be removed by the Government at any time. Lessor waives any restoration in connection with these items. Unless the Government has removed the item from the premises, Lessor shall remain responsible for maintenance, repair, and replacement of all items provided by the Lessor under this Lease. If, after the lease term and any extended, renewal or succeeding lease term, the Government elects to abandon any items in place, title shall pass to the Lessor."

INITIALS:  & 
Lessor Gov't

(b) (7)(F) Lab- Vista
Final Completion List
Date: January 10, 2003

Items Remaining from Pre-final Punch list dated November 1, 2002

1. Room 100- (b) (7)(F) Medallion to be replaced (New unit shipping from Texas on 1/20/03)
2. Room 100- Task lighting required at Security Console (1/15)
3. Room 111- Replace broken glass (12/20)- **Complete 12/18/02.**
4. Room 327- Repair scratch on fume hood or replace glass. (11/22). **Glass replaced- complete 12/3/02. (b) (7)(F) not yet installed.**
5. Record Drawings
6. Pricing- SLA #3- **Complete (1/3/03).**

Final Walkthrough comments dated November 8, 2002

1. One (1) final core delivered incorrectly. Received an A-1 core for Door 410C. The core should be (b) (7)(F). We will return the A-1 core to Steve Basko and expect to receive an (b) (7)(F) core. (Expect core by 1/15/03)
2. Room 212- Missing shelves/drawers in lab casework (11/ 25)- **Complete. 11/26/02**

Items Remaining from Contractors punch list dated November 4, 2002 (Mechanical & Plumbing)

1. Item 792- Relay covers missing inside WC-2 Carrier control panel (12/23)
2. Items 847,848,849- Air compressor control settings, etc. (12/23)
3. Item 878- BAS commands for humidifiers. (12/23)
4. Item 945- Add sequence number to points (12/23)
5. Item 954- Recommend changing P9/P10 to lead/lag with pump fail sequence low DP on/pump.(12/23)
6. Item 957- recommend changing P4/P5 to lead/lag with low DP (12/23)
7. Humidifiers in fingerprint area to be provided with LCD display and keypad.- **Letter from Pure Humidifier company dated November 23, 2002 advises what has been installed is per the Specification.**
8. Install control graphics. (12/15-12/30)
9. Certify fume hood numbers 324, 311, 328. (12/15)- **Complete 12/12/02**

Systems remaining to be completed/Open issues

1. Security System Scope of Work. Currently, intrusion detection system and perimeter system not functioning. Card readers are operational. (b) (7)(F) is operational. Gate arm is operational. The camera system is operational. Programming/customization in process. Pre-functional checklist is complete. Endurance testing is complete.

Per Bud Lamb's final walk-through, the system has been signed off, pending verification testing.

2. Connection of electrical whips to systems furniture- five (5) whips to be shortened (11/22).- Rooms 321,421,201,221,110.-**Complete 11/25/02**
3. Request to Exit Devices required in Rooms 118 and 119, motion sensors provided- **Complete 12/17/02**
4. Resolve the Electric Meter Issue (12/15)-**Complete 12/11/02**

New Items (11/18/02)

1. Replace lighting power pack in Analytical Lab Number 2. (Room 220)-11/25. **(Complete 11/25/02).**
2. Investigate lighting circuit in the Training room. (Room 130)- 11/25 **(Complete 12/9/02)**
3. Provide a copy of Test and Balance Report to Ken Meschke at AEI- **(Complete 12/12/02.)**
4. Provide final cores on all ADT Notifier panels/alarm panels.**(Cores to be delivered by 2/15/03)**
5. Provide signage at all Emergency Showers and Eyewash stations in accordance with Drawing LF 3.5.(12/15).- **(Complete 12/12/02)**
6. Provide door-stop in Trace Analysis Room (Room 310) **(Complete 12/9/02).**

New Items (11/26/02)

1. Room 310- Door out of alignment- adjust closer.- **Complete 12/6/02.**
2. Room 152- Strike plate hanging (screw stripped).- **Complete 12/6/02**
3. Final test- eyewash stations/adjust valve position. See E-mail dated November 25, 2002 from Jerry Sullivan of Earl Walls & Associates.- **Complete 12/12/02**
4. Provide floor cover plate in Room 117 at Neal electric provided conduit penetrating floor.- **(Complete 12/9/02)**

New Items (12/5/02)

1. The darkroom lighting system is very dim- **(Complete 12/18/02).**
2. Door #415A leaf modification (COR #46) was never accomplished.- **(Complete 12/11/02).**
3. Investigate lighting circuit in Room 112.- **(Complete 12/9/02)**
4. The following fixtures are not operational in the hoods (Five (5) in Analytic Lab 1 and One (1) in Analytic lab 2).- **(Complete 12/12/02).**
5. Provide door silencer on Door 175A- **(Complete 12/9/02)**
6. Analytic Lab #2- Installation of purified water system tee to accommodate water polisher- **(Complete 1/6/03.)**
7. Dispute item- Southland to provide documentation advising that the nitrogen piping in Analytic Lab #1,2,3 is revised. We could not find an RFI on this issue. Drawing LP 3.5 shows nitrogen piping stubbing out of the casework. This was not provided. Southland capped the piping within the casework.- **Southland completed work on 1/8/03 per Drawing LP 3.5- Item closed.**
8. Move specialty piping in Organic Synthesis room to coincide with bottle rack- **(Complete- 1/8/03).**

Wish List (12/17/02)

1. Glue cabinet ductwork revisions.
2. Electrical hook-up of photo darkroom equipment.- **Complete 1/8/03.**
(Local (b) (7)(F) office (b) (6) will pay for)
3. Provide 208VAC power outlet for forklift charger- **Complete 1/8/03.**
(Local (b) (7)(F) office (b) (6) will pay for)
4. Provide one (1) additional hydrogen connection at each bench in Analytic Lab 1,2,3, a total of fifteen (15) locations- Pricing due on 1/10/03.

Outstanding Items- Furniture Punchlist(1/10/03)

1. Room 113- Need 108" Modesty Panels- **(b) (7)(F) WISH LIST**
2. Room 110- Missing (1) lock housing 60" flipper-
3. Room 114- Need (1) 96" Modesty Panel- **(b) (7)(F) WISH LIST**
4. Room 115- Need (1) 96" Modesty Panel- **(b) (7)(F) WISH LIST**
5. Room 116- Need (1) 96" Modesty Panel- **(b) (7)(F) WISH LIST**
6. Room 117- Need (1) 96" Modesty Panel- **(b) (7)(F) WISH LIST**
7. Room 112- Furniture to be installed
8. Room 201- Need (1) 96" Modesty Panel- **(b) (7)(F) WISH LIST**
9. Room 221- Need (1) 96" Modesty Panel- **(b) (7)(F) WISH LIST**
10. Room 321- Need (1) 96" Modesty Panel- **(b) (7)(F) WISH LIST**
11. Room 420- Adjust (2) wardrobe shelves and rods.
12. Room 421- Need (1) 96" Modesty Panel- **(b) (7)(F) WISH LIST**
13. Room 422- Touch-up lateral file.

14. Room 142- Missing (3) (b) (7)(F) locks and keys
15. Room 421- Station missing IGR Receptacle

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE
SUPPLEMENTAL LEASE AGREEMENT

SUPPLEMENTAL
AGREEMENT

DATE
September 15, 2004

NO. 4

TO LEASE NO. GS-09B-01022

ADDRESS OF PREMISES 2815 Scott Street
Vista, CA 92083

THIS AGREEMENT, made and entered into this date by and between West Vista LLC

whose address is 10525 Vista Sorrento Parkway, Suite 110
San Diego, CA 92121

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the **Government**:

WHEREAS, the parties hereto desire to amend the above Lease.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and **agree** that the said Lease is amended, effective August 10, 2004, to establish the usable square footage.

Paragraphs 1 is hereby deleted in there entirety and the following substituted therefore:

1. The Lessor hereby leases to the Government the following described premises:

A total of 54,119 rentable square feet, consisting of approximately 47,062 ANSI/BOMA Office Area square feet of office and related space in the building located at 2815 Scott Street, Vista, CA, along with **seventy (70)** secured reserved parking spaces to be used for such purposes as determined by the Government.

All other terms and conditions of the lease shall remain in force and effect.

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

(b) (6)

(b) (6)

(Signature)

Managing Member

(Title)

10525 Vista Sorrento Parkway, Suite 110 San Diego, CA 92121

(Address)

UNIT (b) (6)

GENERAL SERVICES ADMINISTRATION, PUBLIC BUILDINGS SERVICE

BY

Contracting Officer

**U.S. GOVERNMENT LEASE
CHANGE OF LESSOR FORM**

Supplemental Agreement No. 5
To Lease No. GS-09B-01022

Effective Date:
7/1/15
(Insert date of execution by Govt.)

TRANSFEROR, TRANSFeree, and the UNITED STATES OF AMERICA ("Government") enter into this Agreement (the "Agreement") as of the Effective Date. This Agreement is entered into pursuant to the "Assignment of Claims" provision of the General Clauses to the referenced Government lease, as well as 41 United States Code Section 15, and is otherwise based on 48 Code of Federal Regulations Section 42.1204.

A. DEFINITIONS. All initial capitalized words in this Agreement shall have the same meaning as specified below.

(1) "Transferor": West Vista, LLC

[Include the full name of predecessor-lessor. If Transferor is a corporation, include the full name of corporation and state of incorporation. If Transferor is a partnership, indicate whether it is a general or limited partnership. Specify below the name of the signatory authorized to bind the corporation or partnership. If Transferor is different than the original lessor, attach copies of intervening deeds and brief explanation of the chain of title.]

(2) Signatory authorized to bind Transferor: Michael Ibe

[print name]

President
[Title]

(3) "Transferee": EGP DEA Vista LLC

[Include full name of successor-lessor. If Transferee is corporation, include full name of corporation and state of incorporation. If Transferee is partnership, indicate whether general or limited partnership. Specify below name of signatory authorized to bind the corporation or partnership.]

(4) Signatory authorized to bind Transferee: _____

[print

name]

[Title]

(5) "Transfer Date": Date transfer of assets became effective under applicable State law: February 11, 2015

(6) "Property": 2815 Scott Street

[Street Address]

Vista, CA 92083

[City, State and Zip Code]

(7) "Leased Premises": Entire Premises

[Include location of leased premises, e.g., floor number or suite number.]

B. THE PARTIES AGREE TO THE FOLLOWING FACTS:

(1) The Government, represented by various Contracting Officers of the United States General Services Administration, has entered into that certain lease with Transferor: Lease GS-09B-01022. The term, the "Lease", as used in this Agreement, means the above described lease, including all modifications, made between the Government and Transferor before the Effective Date of this Agreement. In addition, included in the term "Lease" are all modifications made under the terms and conditions of the Lease between the Government and Transferee, on or after the Effective Date of this Agreement.

(2) As of the Transfer Date, Transferor has transferred to Transferee all the assets of Transferor involved in performing its obligations under the Lease by virtue of a grant deed of property

[Insert a term(s) descriptive of the legal transaction involved between Transferor and Transferee—for example, "a grant deed to the Property"].

(3) Transferee has acquired all the assets of Transferor involved in performing the Lease by virtue of the above transfer.

(4) Transferee has assumed all obligations and liabilities of Transferor under the Lease by virtue of the above transfer. Without limiting any of the Government's rights, it is noted that this provision is not intended to modify or eliminate any indemnification or other agreements which Transferee and Transferor have to each other pursuant to their other agreements.

(5) Transferee is in a position to fully perform all obligations that may exist under the Lease.

(6) It is consistent with the Government's interest to recognize Transferee as the successor party to the Lease.

(7) Evidence of the above transfer has been submitted to the Government.

C. IN CONSIDERATION OF THESE FACTS AND THE REPRESENTATIONS SET FORTH BELOW; THE PARTIES AGREE THAT BY THIS AGREEMENT:

(1) Transferor confirms the transfer to Transferee, and waives any claims and rights against the Government that it now has or may have in the future in connection with the Lease.

(2) Transferee agrees to be bound by and to perform the Lease in accordance with the conditions contained in the Lease. Transferee also assumes all obligations and liabilities of, and all claims against, Transferor under the Lease as if Transferee were the original party to the Lease and is bound by all previous actions taken by Transferor with respect to the Lease, with the same force and effect as if the action had been taken by Transferee.

(3) The Government recognizes Transferee as Transferor's successor in interest in and to the Lease. Transferee by this Agreement becomes entitled to all right, title, and interest of Transferor in and to the Lease as if Transferee were the original party to the Lease. Following the effective date of this Agreement, the term, "Lessor", as used in the Lease, shall refer to Transferee.

- (4) Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the Government against Transferor.
- (5) All payments and reimbursements previously made by the Government to Transferor, and all other previous actions taken by the Government under the Lease, shall be considered to have discharged those parts of the Government's obligations under the Lease. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to Transferor shall have the same force and effect as if made to Transferee, and shall constitute a complete discharge of the Government's obligations under the Lease, to the extent of the amounts paid or reimbursed.
- (6) Following the full execution of this Agreement, Transferee desires, as soon as practicable, that rent checks, in the amount set forth in the Lease, be payable to Transferee and sent to Transferee at the following address:
- 2101 L Street NW
Suite 750
Washington, DC 20037
- (7) Transferor and Transferee agree that the Government is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the Government in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the Lease.
- (8) Transferor guarantees payment of all liabilities and the performance of all obligations that Transferee assumes under this Agreement. Transferor waives notice of, and consents to, any future modifications.
- (9) The Lease shall remain in full force and effect, except as modified by this Agreement.
- (10) Each of the persons executing this Agreement on behalf of Transferee does hereby covenant and warrant that such entity is a duly authorized and existing entity, is qualified to do business in the state identified in Paragraph A (3) above, with full right and authority to enter in this Agreement, and that each and every person signing on behalf of Transferee is authorized to do so. Upon request, Transferee shall provide Government with evidence satisfactory to Government confirming the foregoing covenants and warrants.
- (11) The Lease is amended to include the provisions set forth in Exhibit A, which is attached to and made a part of this Agreement. [Exhibit A does not apply to Transferor and does not need to be filled in prior to execution of this form by Transferor.]

IN WITNESS WHEREOF, each party has executed this Agreement as of the day and year first above written.

TRANSFEROR: [Attach additional pages if necessary for multiple signatures or multiple entities]

West Vista, LLC

(b) (6) [Redacted] Transferor]

By

Print Name: Michael P Ibe

Title: President

CERTIFICATE

I, Mark W Bauer, certify that I am the Secretary of West Vista, LLC

that Michael P Ibe who signed this Agreement for this corporation, was then President of this corporation; and

that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of this corporation this 9 day of April, 2015

By (b) (6) [Redacted]

[CORPORATE SEAL]

TRANSFEE: [Attach additional pages if necessary for multiple signatures or multiple entities]

EGP DEA Vista LLC

(b) (6) [Redacted] (Print name of Transferee)

By

Print Name: William C. Trimble III

Title: Chief Executive Officer

CERTIFICATE

I, Benjamin P. Bartlett, certify that I am the Secretary of EGP DEA Vista LLC

that William Trimble III who signed this Agreement for this corporation, was then CEO of this corporation; and

that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of this corporation this 15 day of June, 2015

By (b) (6) [Redacted]

[CORPORATE SEAL]

Government:

UNITED STATES
(b) (6) [Redacted]

By:

Name: GUADALUPE FLORES

Title: CONTRACTING OFFICER

**EXHIBIT A TO
U.S. GOVERNMENT LEASE
CHANGE OF LESSOR FORM**

Supplemental Agreement No. 5

To Lease No. GS-GS-09B-01022

The following provision is made a part of the Lease:

1. CENTRAL CONTRACTOR REGISTRATION

(a) Definitions

- (1) "Central Contractor Registration database" and "CCR" mean the primary Government repository for contractor information required for the conduct of business with the Government. CCR is a centrally located, searchable database which assists in the development, maintenance, and provision of sources for future procurements.
- (2) "Registered in the CCR database" means that-
 - (i) The contractor has entered all mandatory information, including the DUNS number or the DUNS+ 4 number, into the CCR database; and
 - (ii) The Government has validated all mandatory data fields and has marked the record "Active."
- (b) Lessor must be registered in the CCR database during performance and through final payment under this Lease. Transferee must register via the Internet at <http://www.ccr.gov>. To remain active, Lessor is required to update or renew its registration annually. Transferee must be registered in the CCR for this change of ownership to be approved.
- (c) Transferee represents that Transferee is registered in the CCR database.
- (d) Lessor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, Lessor is required to review and update on an annual basis (from the date of initial registration or subsequent updates) its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.
- (e) (1) (i) If Lessor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the lease), or has transferred the assets used in performing the Lease, Lessor shall comply with the requirements of Subpart 42.12 of the Federal Acquisition Regulations (FAR) and provide to the responsible Contracting Officer the representations contained in this form, fully revised and executed, along with written notification of its intention to (A) change the name in the CCR database; and (B) provide the Contracting Officer with sufficient documentation to verify and confirm the legally changed name or change in ownership.
 - (ii) If Lessor fails to comply with the requirements of paragraph (e)(1)(i) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this Lease.
- (2) Lessor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims. Assignees shall be separately registered in the CCR database. Information provided to a contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that contractor will be considered to be incorrect information.
- (f) Offerors and contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

INITIALS:

TRANSFeree

GOVT.